Public (Gl) (1929.) Department.

Mis SERIES.

G.O. No. 1291.

DATED 13-12-29.

[Despatch Abstract.]

Hindu-Muslim tension—
Mangalore—Moplahs and fishermen—
Riots of May 1929—Reports—Recorded.

1

C. POSTS TELEGRAPHS. 193

NOTICE.
This form must accompany any inquiry made respecting this Telegram.

Charges to pay.
Rs. As.

Handed in at (Office of Origin.) Mangalore Kna. | Date. 14 | Hour. 5.3 | Minute. | Service Instructions | Words. 46

CHIEF SECRETARY 8th MAY 1929 GOVT. OF MADRAS

Recd. [illegible]

TO Chief Secretary government
= Home dept
Dispol reported yesterday evening, rioting Kudroli mangalore same afternoon police fired to disperse crowd with grenades police inspector used one round revolver causing death one man quiet prevails today self returned headquarters this morning report will follow dispatch

copy Home dept (Secr. C)
Repeat to Home dept

B.—The name of the Sender, if telegraphed, is written after the text.
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US

Pub (Genl) Deptt

Advance Copies have already been circulated.

2. Wast telegram to India is submitted. As the matter do not seem to be of a serious character it is however, for Consideration whether a report to India is necessary at all - Please see para 1 of the summary appended to Go 541 Pub 8/15.6.27

ATCN.
8/5/29

All
8.5.9

7

Public Deptt

Telegram No

To,

Home

Simla

Rioting Kudroli Mangalore [in] South Kanara district [on] 6th evening aa Police had to charge crowd ~~in~~ aaa Police Inspector fired one round revolver causing death one man aaa Distrate wired on 7th that ~~quiet~~ quiet prevailed No further report seems necessary

hlf. 8.5.29

ATCN
8/5/29

Z
Page 2, para 8

P.C. to go

8.5

3

Telegram

To

District
Mangalore

Despd 11/5

Reference your telegram
& 7th instant regarding
riot at Mangalore.
Expedite detailed report.

ARN
11/5/29

11/5/29

This will issue only if the
report is not received
in today's tappal

ARN
11-5-29

C.F. 35 826—17-12-21.

1x

PUBLIC DEPARTMENT.

Received ..... 192 . *Registered* ..... 192 .

Subject.

Rioting - Mogers and Muhammadans - Kudroli - Mangalore - Further report - submitted.

ENCLOSURES.
No. .....
.....
Spare copies.....

Rf - C1 - No. 4301 - 29

Station Mangalore, *Dated the* 10th May 1929.

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,

(Designation) Dt. Magistrate of South Kanara.

To The Chief Secretary to the Government of Madras,

Public Department,
Stonehouse Hill, NILGIRIS.

Sir,

M. 1 enclosure

In continuation of my telegram of 7th May 1929 regarding the rioting in Kudroli Mangalore on 6th May 1929, I enclose a copy of the report of the District Superintendent of Police, South Kanara Cur.No.821/Genl.29 addressed to the Inspector-General of Police, Madras which gives a very full account of the occurrences of the 4th and 6th May 1929 and the circumstances which it is believed led to the attitude of the Muhammadans, which resulted in retaliation by the fishermen on the 6th.

M 6-15 enclosures

2/ With regard to the shooting of a Moplah by Inspector Schamnad, I have examined the Inspector Himself and a Sub

Inspector, a Head Constable and a Constable who accompanied him, besides two Moplahs produced by him who say that they witnessed the occurrence. The statements of these persons, coupled with the report of the District Superintendent, and the reports of the Stationary Sub Magistrate, Mangalore dated 5th & 6th May 1929, (copies enclosed) convince me that the Inspector and his party were so situated that he had to fire a shot to prevent the opposing factions from causing death or serious injury to each other, if not death or serious injury to himself and members of his party, some of whom, it will be noticed, were struck with missiles. I went over the ground with the District Superintendent and the Sub Divisional Magistrate on the 7th, and the former showed me a large collection of knives, swords, harpoons, iron bars, sticks and billets of wood seized from members of both parties, their possession of which indicated an intention of proceeding to extremes. The Superintendent intends to prosecute a number of members of both parties, and cases under Section 107 C.P.C. against certain of them are already being heard. It is not thought that there is likely to be a recurrence of the disturbances, and it is rumoured that there is a disposition among the factions to attempt a settlement of their disputes, but the situation is being carefully watched and I have altered my tour programme so that I can remain here for a few days. I notice that the "Madras Mail" of the 9th contains a statement from a Correspondent that there was a bayonet charge. There was none. As described to me by the District Superintendent of Police and the Sub Magistrate, the police party with them reversed their rifles and charged with the butt-end forward.

In my opinion a very dangerous crowd was dispersed in the most humane manner possible by the District Superintendent of Police and Sub Magistrate, who both showed determination and resource.

Your obedient servant,

Dt. Magistrate. 10/5/29

10.5.29

M.D'S.10/5.

C. no 821/Secl./28 M/1624 6

Office of the
Dt. Superintendent of Police
Mangalore, 10-6-1929.

From

H.R.Ry. N.Ramanuja Ayyangar, M.A., B.A.,
Dt. Superintendent of Police,
South Kanara District.

To

The Inspector-General of Police,
M a d r a s.

Thro'

The Deputy Inspector-General of Police,
Southern Range, Coimbatore

and

The District Magistrate,
South Kanara.

Sir,

I have the honour to submit the following report.-

On 4-6-1929 the dead body of a moger woman (fisher-woman) was being carried along the Kudroli road from south to North to the cremation ground which is situated at the northern end of the road. The funeral party consisted of the four pall-bearers and a number of fishermen, relatives and caste-men of the deceased, numbering about thirty when it started. At about 3 p.m. the funeral reached a mosque known as the Punaliyara mosque. By this time the cortege had received some accretions on the way and numbered about sixty. When the funeral reached the Punaliyara mosque a body of moplahs rushed out of their houses and obstructed the funeral on the ground that the persons who accompanied the funeral were going with bhajana (which is usual with this community) did not stop music before the mosque. An altercation ensued between the moplahs and the mogers -- which resulted in an affray in which a few persons on either side-ten in all-were injured. News was at once carried to the Town Police Station of the disturbance. The acting Sub Inspector Ramakrishna with a few constables hurried to the scene and found the bier lying on the road and parties assaulting each other. He at once separated the parties, stopped the fighting, sent the injured to the hospital after taking down a few statements from those

who were present there, and then directed that the corpse should be taken for cremation. After proceeding a short distance the funeral again reached another mosque known as the Kadupalli mosque. Anticipating similar disturbances here, Sub Inspector Furtado had gone ahead a few minutes before. As the funeral reached this second mosque (Kadupalli mosque) a body of moplahs and other Muhammedans -- rushed out of the mosque armed with knives and cudgels and attacked the procession in spite of the advice of the Sub Inspector and started indulging in a free fight which -- brought about its sequel -the pelting of stones indiscriminately. The Sub Inspector finding the situation grave owing to the numbers on either side having increased considerably and the crowd getting excited, bicycled up and reported to me that the two parties were indulging in a free fight and that there was likely to be a serious riot.

I received the information on the hockey ground where I was playing hockey about 5.40 p.m. and I at once had the assembly sounded and proceeded to the Armoury -- closeby and arming the men who were with me playing hockey, hurried to the spot in my car leaving instructions behind for re-inforcements to follow. I reached the spot in about 10 minutes and noticed a few persons throwing stones at each other as I reached the spot, but the moment I reached the spot stone throwing stopped and both sides came crowding in;- the moplahs complaining that the rogers tried to pass the mosque without stopping music and the rogers complaining that the moplahs made a gratuitous attack on them on the previous occasion although they had stopped music before their mosque. I kept the crowds well away from the party and as stone throwing had absolutely stopped at sight of me and my party, I marched up to the fishermen crowd and got four of them to come back and carry the corpse which I found lying at the threshold of a moplah house opposite the mosque and the bier bereft of the corpse lying a couple

of yards away from it. The mogers were afraid to take the corpse further and I sent a Sub Inspector with four men to escort the corpse a short distance to see it safely off. The mob at the same time was dispersed and quiet restored I made some enquiries on the spot and learnt that stone throwing had been fairly freely indulged in. But there was little or no damage done on this occasion except for a Municipal lantern which was broken and a bit of the tiled roof of the mosque damaged. Assuring myself that everything was quiet I proceeded to the Common-wealth Tile -- Factory which is situated on the road where Mr. Fowler, the Manager lives. I met Mr.Fowler at about 7.30 p.m. and learnt from him that as the place was in a disturbed condition he had sent his wife and child to Mr. Paisley's Bungalow for safety. Seeing quiet restored promptly, Mr. Fowler and I drove to Mr. Paisley's and brought back Mrs. Fowler and child who felt quite confident after the crowd was dispersed. I also left a body of one head --- constable and 10 constables of the Armed Reserve from among the re-inforcements which had come up in charge of a -- Sergeant in Mr. Fowler's bungalow the use of which he very kindly permitted, so that the men may be readily available in case of emergency. I also arranged for the road being patrolled in the night.

The next morning 5/5/29 quiet reigned. There was absolute nothing and normal conditions prevailed.

I visited the scene with the second class Magistrate Mr. K. Krishnaya and inspected the mosque. It appeared to us that all the damage to the mosque was not due to the -- stone pelting and some tiles must have been removed by the people who were in the mosque and used them missiles themselves. Moreover the previous evening the moplahs were crying out that a number of fishermen had entered the mosque and wanted me to go in and see. I did so. I found that the apprehensions of the moplahs were illfounded and that there was no one except moplahs in the mosque.

I ordered the cases to be registered and investigated in the usual course.

6-6-1929-I heard nothing further till 12 noon. At 12 noon I heard that fishermen were collecting in mass at Kaikampadi, a village about 7 miles from Mangalore and were holding a meeting of their castemen as to what steps they should take for their funeral having been attacked on 4-6-29 I might here mention that I have since learnt that the fishermen of fourteen villages which they call (Hadinalku patna) form a close corporation and worketogether as a social unit. I at once sent a memo. to the Town Inspector to Commute the I.O. Head constable to ascertain what was being done at the meeting and to keep me informed. The Inspector himself seems to have gone at about 12 noon on similar information received by him as far as Bokapatna about a mile off the scene of disturbance and finding nothing returned to the station and was working there. A little before 2.15 p.m. he received information that a large body of negroes were marching down the Kulroli Road determined to wreak revenge on their previous day's assailants and that the moplahs also had mustered strong to oppose them. He at once sent intimation to me and also to the Reserve who were standing in readiness, and himself with Sub Inspector Furtado proceeded to the spot directing some of his own men to follow him immediately. When the Inspector and the Sub Inspector reached the spot the two parties had already started fighting and were pelting stones at each other. They pushed their way into the crowd and with much difficulty tried to separate the two parties. Neither party obeyed his orders to desist from fighting and the situation was grave and the two Police Officers above named were in imminent danger of their own lives and could not prevent serious loss to other lives and damage to property by peaceful persuasion, the Inspector Mr. Chamnad took out his revolver and fired one shot into the mob. It was not known then, but it has subs-

subsequently been ascertained that one man Kasd Peary- a moplah-died as a result of the shot. This action on the - part of the Inspector had the effect of separating the two mobs although the crowd was still in a state of great -- excitement and continued to brandish the cudgels and other deadly weapons with which they were armed.

I received the message of the Inspector exactly at 2.15 p.m. Without a moments delay I hurried to the Taluk Cutcherry and took Mr. Krishnaya, the second class Magistrate with me, as the First class Magistrate was in camp. I Commandeered the first bus that was available at the bus stand at Kempakatta and repaired to the spot with a posse of 1 Inspector, 1 Sergeant, 3 head constables and 20 -- constables of the Armed Reserve. I proceeded by the -- Calikatta road from south to north to Kudroli as I heard the moplahs had mustered strong on this road.

I might digress a little here to describe the scene of disturbance. The road on which the disturbance took place lies to the extreme west of Mangalore town and runs south to North. At the southern end it is called the - Calikatta road. In the middle it is known as the Kudroli road and at the northern end the road assumes the name of Sultans Battery road and all three roads are one and the same road stretching from South to North. At its widest part it is 36 ft. 7 inches broad and its narrowest it is 23 ft. broad. On both sides of the road are moplah -- houses and bazaars so that the road is a very narrow one from its beginning in the south to the Kadupalli mosque in the north.

Then myself and the Sub Magistrate reached the spot with the contingent of Reserve-of which one head constable and ten constables had already marched to the spot on the requisition of the town Inspector-we found all the shops and houses on the Calikatta-Kudroli road closed, as if there was a hartal, and moplahs crowded in the street -

armed with lattics, sticks, cudgels long knives and other dangerous weapons such as sharp chisels, sword sticks etc., in their possession. We could hardly make progress for the seething mass. I at once halted the bus and ordered the mob to disperse, but found that they did not do so. I soon got my men in position. The Sub Magistrate quickly realised the danger and judged the gravity of the situation and finding no other way to disperse the mob declared it to be an unlawful assembly and told me to disperse it with such force as I deemed necessary. With his permission and in his presence I led a butt and charge and broke the mass of the crowd as we were anxious to get into touch with the Inspector who, we heard, had been surrounded. The charge, I may be permitted to say was well carried out and we rounded up batches of moplahs and with the minimum amount of force we deprived them of their weapons which consisted as above stated of a large number of sticks and cudgels, swords, sword sticks, iron-pipes, harpoons, knives etc.,. We also arrested a number of rioters and took them to the station in the bus. All this was done in quick time and we got into touch with the Inspector at 3 p.m. and similarly dealt with the fishermen mob. When I met the Inspector he reported to me and the Sub Magistrate that he had to fire one shot from his revolver and he was not sure whether any one died as a result of his shot. By this time the crowd was thoroughly dispersed and perfect order restored. I posted pickets in points of vantage and arranged for patrols to safeguard the place. At about 4 p.m. I received a chit from the Treasury Deputy Collector, that there were a number of moplahs crowding round the Municipal Office just past his own office. I at once proceeded to the spot and found the crowd had dispersed. I then returned to my office and sent telegrams to the Inspector General of Police and the Deputy Inspector-General of Police and the District Magistrate of the occurrence. I also arranged to have the whole town patrolled to prevent any

and stray assaults. in other parts of the town.

On 7-5-1930 the District Magistrate who was in camp also arrived. I went round the disturbed area with him while he inspected the locality. Messrs. Pirce Leslie and Co.'s moplah coolies having apprehensions to proceed with the cargo to the ship for fear of the fishermen, the Company asked me if I could furnish Police assistance and I provided them with a convoy and their cargo was safely shipped.

Sixty seven moplahs and seventy six fishermen were rounded up and their names and addresses ascertained and we released them on their own recognizances. I have directed a charge-sheet to be put up under Sec. 148 I.P.C. -- against the most prominent of the rioters on either side against whom good evidence is available.

A charge-sheet under Section 107 Cr.P.C. has also been laid against nine moplahs and seven fishermen who are believed to be the leaders.

The rioters were in my estimate about one thousand five hundred strong on either side.

I herewith append a list of the persons injured during the riots. The injuries are all of a simple nature except for two men whose injuries are of a grave nature, but are not likely to result fatally, and one death which was due to the revolver shot fired by Inspector Chamnad.

Having reported the events of the riots, I may take this opportunity of giving in brief a history of the communal tension which has come into being between the moplahs and certain sections of the Hindu community in Mangalore, although the events that will now be narrated do not appear to have anything to do with the events which took place on the 4th and 6th instants which have been reported above.

In November 1928 there was an out-break of Cholera within the Mangalore Municipality. With the idea of pro-

B

propitiating the goddess Hari, bhajana parties were started by almost all the Hindu communities. The Muhammadans -- started parties going about the street singing their ---- scriptures. This, in my experience is common to both - Muhammadans and Hindus in other parts of the country also. and there is nothing unusual about them. The most prominent sections of the Hindu communities that formed these bhajana parties were (1) the Gowd Saraswats, (2) the Nogero and (3) the Harishets.

On 7-12-1928 when bhajana party of Hari-shets was passing opposite a mosque in Basavanagudi street called the Shamiyar mosque with cymbals and harmonium it was -- stopped by some Muhammadans of the locality. The bhajana party said to have dispersed acceding to the demand of the Muhammadans.

On 8-12-1928 the Police apprehending trouble were on the scene and the Hari-shets and the Muhammadans came to an agreement by which the bhajana party was allowed to proceed with muffled music and with as little noise as possible.

On 9-12-1928 at about 10 p.m. the Gowd Saraswat community passed by the mosque with bhajana. The Muhammadans obstructed them and there was a small fracas in which about three or four persons on both sides sustained simple injuries. On this occasion the local Police incharge of the Circle Inspector Chamnad and the Sub Magistrate with a small Reserve force went to the spot and averted further trouble.

As it was apprehended that a breach of the peac might arise when these bhajana parties went past the -- mosque with tom-tom and music an order under Sec. 144 Cr. P.C. was passed on the 10th of December 1928 on all Hindu communities by the Sub Magistrate, Mangalore, prohibiting them from playing tom-tom in front of mosques.

On 24-12-1928 fell the Mukuta Dwadashi festiv

and the Good Saraswat community applied to the Sub Magistrate, Mangalore , for permission to take their deity of the Shri Venkatramana Temple past the above mosque with Tom-tom and music as per (according to them) their manool right. The Dt. Superintendent of Police having learnt of this attempted to effect a compromise and held a conference of the leaders in the presence of the Sub Divisional Magistrate, Mangalore and the Sub Magistrate, Mangalore. The conference would appear to have fallen through and a notice under the Police Act was issued on 19-12-1928 to the Poktessors of theTemple to take out licences for going out in procession. The Good Saraswat community rather than take out licences which they considered would be tantamount to surrendering their rights stopped the festival altogether.

On 15-1-1929

On 16-1-1929 the Marigudi festival of Mogers at Urva came off. The Muhammadans of Kudroli petitioned to the Dt. Superintendent of Police that mogers intended -- taking out a procession with music past the Kudroli mosque The Dt. Superintendent of Police warned and advised the - mogers not to create any trouble. They deferred to the advice and took their procession through a different route avoiding all mosques.

On 16-2-1929 the annual car festival of the Shri Venkatramana Temple of theGood Saraswat community came off. The period of the order under Section 144 Cr.P.C. had just expired and the order had vacated. The Muhammadans again represented to the Dt. Superintendent of Police that the Good Saraswats intended taking out their procession past the mosque with music and tom-tom The Dt. Superintendent of Police personally went to the spot and prevailed upon the Good Saraswats to stop music when passing the mosque pending decision of the Civil Suit which that community has instituted and thus averted a breach of the peace.

On 27-3-1929 the Polar Mari-gudi festival , which comes off once in twelve years began. On this day the procession had to pass opposite the Polar Mosque with tom-t-

and music. The Muhammadans of Bolar again submitted a petition to the Dt. Superintendent of Police to prohibit the procession passing the mosque with music. The District Superintendent of Police, again met the elder men of the Marigudi and persuaded them to refrain from playing the music before. As agreed by the Muhammadans and the Hindus the spots where music might stop and where it might be resumed was pointed out to the Dt. Superintendent of Police and the places were marked out. The procession was then permitted to go and it went off peacefully.

On all these occasions it will be noticed that the Hindus gave in to the demands of the Muhammadans either by executive orders or by peaceful persuasions of the officials who were anxious to have peace at any price. These events had some-what estranged the feelings between the Muhammadans and the Hindus of the place. The events of 4-5-1930 have now thoroughly estranged the feelings of all these communities against the Muhammadans as these communities feel that the attack on the deadbody was gratuitous.

Finally, I may be permitted to express my feelings of thankfulness to the Sub Magistrate, Dr. K. Krishnaya, who was all along with me and ran the same risk as the police did and for his prompt and quick decision, which more than anything else contributed to the speedy quelling of what might have otherwise been a serious riot.

I have the honour to be,
Sir,
Your most obedient servant,

Dt. Superintendent of Police.

Copy forwarded to the Inspector-General of Police, Madras, direct.
Copy to the Dy. Inspr.-Genl. of Police, Southern Range, Trichy.
Copy to the Dt. Magistrate, South Kanara, the Sub Divisional Magistrate, and the Sub Magistrate, Mangalore.

List of injured persons during the riot. 16

Sc	N a m e.	Fathers name.	Caste.	Occu-pation.	Nature of in-uries.	Remarks.
		4-5-1929.				
1.	Poova-Hoige.	Angara.	Fisherman.	Fishing	Grievous-not fatal Inpatient.	Sent to the hospital by the police.
2.	Bodamba--do-	Tama	-do-	-do-	Simple	
3.	Padmappa -do-	Basava	-do-	-do-	-do-	
4.	Annappa- -do-	Poova	do-	-do-	-do-	
5.	Venktappa -do-	Bovu.	do-	-do-	-do-	
6.	Koidini Beary-Kudroli.	Abbu Beary	Moplah	Cooly	-do-	
7.	Kasim Beary-do-	Abdul Khadar.	-do-	Petty shop-keeper.	-do-	
8.	Abdul Khadar-do-	Kunhambu	-do-	Tindal.	-do-	
9.	Devappa-Hoige	Pergale	Fisherman	Fishing	-do. Inpatient	Went to the hospital by th mselves.
10.	Siddu-Koolky	Venka	-do-	-do-	-do-	
11.	Shekabba-Kudroli	Hussan Beary	Moplah	Cooly	Simple	
		6-5-1929				
12.	Pursha-Kudroli	Poova	Fisherman	Fishing	Grievous inpatient not fatal	
13.	Thimmappa-do.	Not known	-do-	-do-	Simple.	
14.	Soma -do-	Aitha	-do-	-do-	-do-	
15.	Anantha -do-	Lakkanna	-do-	-do-	-do-	Treated by a Private medical practi-tioner.
16.	Guruva---do-	Linga Gurikara	-do-	-do-	-do-	
17.	Babbu -Bokkapatna	Koraga	-do-	-do-	-do-	
18.	Thowda Kudroli	Babbu	-do-	-do-	-do-	
19.	Thyampa -do-	Koraga	-do-	-do-	-do-	
20.	Ammanna -do-	Mudara	-do-	-do-	-do-	
21.	Baira -do-	Bogra	-do-	-do-	-do-	
22.	Naraina -do-	Basava	-do-	-do-	-do-	
23.	Thukra -do-	Guruva.	-do-	-do-	-do-	
24.	Damoor -do-	Mallu	-do-	-do-	-do-	
25.	Roma -do-	Ramappa	-do-	-do-	do-	
26	Guruva. -do-	Manjanna	-do-	-do-	-do-	
27.	Mandappa-Bokkapatna-	Basappa	-do-	-do-	-do-	
28.	Shekabba-Kudroli	Hassain Beary	Moplah	Cooly	-do-	Sent to the hospital by the police.
29	Podia -do-	Not known	-do-	-do-	-do-	
30.	Mammu - Old fish baz-aar.	-do- / Dead. Abdul Khadar	-do-	-do-	Revolver shot.	

Kulasekara 8/11/29

Statement--Mr. M. Schamnad, Town Inspector B. Mangalore--taken on 8th May 1929.

On the morning of the 6th at 12 O'clock I heard a rumour that there was some trouble in Kudroli Bokkapatna, because some people were holding meetings on the sandspit and that they wanted to proceed to Kudroli and Bunder. Those people were fishermen. I got a Bus and went to Kudroli and Bokkapatna with a few men. I found nothing there and returned to the station. At about 2 p.m. some Moplahs came running to the station and reported that the fishermen were proceeding from Bokkapatna towards Kudroli with cudgels and sticks etc. Then I and Furtado, Sub Inspector, started at once with our revolvers and asked H. C. 53 and some other men to go to the Taluk station and take carbines and follow us immediately. Before starting I sent intimation to the District Superintendent of Police and to the Reserve Inspector. By the time Furtado and I reached the spot there was a large gathering of fishermen and Moplahs. The fishermen were at the north end of the road and the Moplahs on the south. The road runs from north to south. They commenced fighting armed with sticks, cudgels and weapons. There were thousands on each side. I could not see the other end of each. I tried my best to separate them and warned them. The men from behind began to pelt stones on both sides. Many stones fell upon me and my Sub Inspector and my men. By that time the Head Constable and the other policemen had arrived, they were only three or four. Sub Inspector Furtado and one of the Constables were injured. The attitude of the crowds was such that I apprehended danger to life and property and I thought that nothing short of firing would prevent it. Therefore I took my revolver and fired one shot in the crowd. It had the desired effect and I was able to separate the parties. They did not however disperse. I pushed the Moplahs back to some distance. Both parties did not disperse till the District Superintendent of Police came with armed force. The District Superintendent of Police had to disperse the mob by force. When I spoke of the desired effect I meant that the shot prevented the

parties from coming into actual collision. Even then stones were being thrown.

I warned the mob by shouting loudly saying that I would be compelled to fire if they did not cease to fight. They could hear what I said. In spite of the warning they would not disperse. The fishermen were to the north of me and the Moplahs to the south. I was cornered in the middle. I was surrounded in the middle of the mob and could not even escape from it. The Magistrate was not present. I had to exercise my own discretion. The District Superintendent of Police came from the south. He had to disperse the crowd before he could reach me. There was a big crowd between me and him. There was imminent danger to my own life and to those of the men with me. Furtado was injured. I was struck on the head with a stone but I was wearing a topi.

Sd/ M. Schamnad,

B. Inspector.

Read over by Mr. Schamnad himself and admitted by him to be correctly recorded.

Sd/ G. W. Wells,

8. 5. 29

Dt. Magistrate.

(True copy)

10.5.29

District Magistrate.

Sub Inspector A. Furtado of Mangalore Town station examined on 8th May 1929.

On 6. 5. 1929 at about 2 o.m. while I was in the station with the Circle Inspector, Mangalore, some Moplahs rushed to the station in a body and gave us information that some fishermen were advancing from Kudroli towards Golikatta. The Inspector sent intimation to the Dt. Superintendent of Police and the Reserve and ordered the available men in the station to follow him to the place. I went with the Inspector in advance with our revolvers. When we reached Kudroli we saw two parties, the fishermen on the other side of the bridge and the Moplahs to the south of it. Both parties were exchanging blows with cudgels, sticks etc. The Inspector warned both parties in an audible manner to desist and disperse. As the attitude of the rioters was dangerous to life and property and the crowd did not desist on the warning given by the Inspector, he took out his revolver and fired a round at the mob. Before that the other policemen had arrived--just before. They were one head constable and a constable, so far as I recollect. When we were surrounded we were struck by brickbats thrown by both sides. After the shot the rioters began to move and we were able to keep them apart till the arrival of the Dt. Superintendent of Police with the armed Reserve. He arrived from the south. There was a large crowd between him and us. I got an injury on the back in the region of the waist and I have obtained a medical certificate. It was probably caused by a brickbat, by which I mean a piece of tile. Constable No. 642 got an injury. He has a medical certificate. He was injured with a brick bat. There was road metal granite stones stacked on the road side. The crowd were throwing these stones. I may have been struck with a piece of granite and not with a piece of tile. I can't say. The mob were only two or three feet from us. We expected to be seriously hurt or killed. I certainly consider that the shot had the effect of saving us. At that time the members of the crowd were all mixed up. The mob had long knives, cudgels and sticks.

Sd/ A. Furtado,
S.I. of Police,
Town 8. 5. 29 Read

Read over by Sub Inspector Furtado himself and admitted by him to be correctly recorded.

Sd/ G. A. Wells,
8. 5. 1929.
District Magistrate.

(True copy,

District Magistrate.

P. Misquith, Head Constable No. 53 of Town Station, -- Mangalore. Examined on 8th May 1929.

The Circle Inspector of Police came and informed at about 2 p.m. on 6th May 1929 at the Town station Mangalore, myself acting S. I. Ramakrishna and Head Constable Kumara that there was a rioting at Kandadpalli and that we should at once go there. The Circle Inspector went at once and we followed. The Circle Inspector went with Sub Inspector Mr. Furtado. When we reached near the house of Vakil Mr. Usman Sahib we received information that both parties had surrounded the Circle Inspector We went there running. Stones were thrown on us as we ran. We tried to pacify the people there but did not succeed. The Circle Inspector tried his best to pacify the people saying that it was not good to -- fight. He also said that if the assembly did not disperse shooting would have to be done. By that time the exchange of blows became greater. The Inspector fired one shot saying that shooting will have to be done. that shot struck one moplah in the crowd. The crowd began to disperse a little. Then the Reserve Police and the Dt. Superintendent of Police arrived. I was struck with a stone on the head. It was a jalli kallu--sile kallu--granite. At some places there were stacks of granite for mending the road. The stone fell on my turban and glanced off. I was afraid that lives would be lost, not mine. I thought that if firing was not done members of the mob would kill each other. I was surrounded. I was a little in advance of the rest of my party. Our party joined the Inspector and the Sub Inspector We were being stoned as we proceeded towards them. I have twenty-two years' service. When the Inspector told the people he was going to fire he did it in such a manner that all could hear. The result of the firing was that the crowd slowly dispersed. The throwing of stones also slowly ceased.

Sd/ P. Misquith,
H. C. 53

Taken down by me. Read over and interpreted in Canarese by clerk K. Kudava and admitted to be correct.

Sd/ G. W. Wells,
8. 5. 29
Dt. Magistrate.

23

(True copy)

Dt. Magistrate.

1054

Statement of Sheikh Abdul Khader, Constable No. 612 of Mangalore Town station, caste, Mahomedan.

On the afternoon of 6th May I was at the Town station. Information was received that a rioting of Moplahs and Mogers was occurring at Kudroli. The Circle Inspector and Sub Inspector Mr. Furtado went there first. Acting Sub Inspector Ramakrishnayya H. C. 53 Misquith and Head Constable 572 Kumara and I went togetner to Kudroli. When we reached there we saw the Inspector and tne Sub Inspector Mr. Furtado in the midst of a crowd. The Inspector was holding a pistol in his hand and telling the crowd if they did not disperse they would be shot at, I heard the sound of a shot. One of the Moplahs fell down. The Circle Inspector and I separated the parties. Mr. Furtado and acting Sub Inspector Rama-krishnayya took the Mogers to one side and the Circle Inspector and I took the Moplahs to the other side. Stones were falling A stone fell on me. I got an injury on the back. I got a medical certificate. A stone fell on Sub Inspector Mr. Furtado. Red stones pieces of tile, bits of brick were seen by me. I thought that if the two parties came into contact there would be danger to life. On account of the firing of the shot the Moplahs receded; otherwise they would have advanced and fallen upon the others. I anticipated danger to the lives of the police party if the two parties had not been kept separate I have twenty one years' service.

Sd/Sheikh Abdul Khader;
Constable No. 612.

Taken down by me, read over in Canarese by clerk K. Kudva and admitted by the Constable to be correct.

Recorded on 8. 5. 29. By oversight not signed by me at the time.

Sd/ G. W. Wells,
9. 5. 29
Dt. Magistrate.

(True copy)

Dt.Magistrate. 10/5/29

25

Mammunhi, son of Kalandan, caste Moplah, occupation trader in tobacco of Golikatte bazaar, Mangalore.

I have lived in Mangalore 15 or 20 years. I remember last Monday. I was trading in tobacco on that afternoon. I was sitting in my shop. I heard that there was some fighting going on between Mogerss and Moplahs near Kudroli bridge. I ran to the spot. I found the Circle Inspector between the two parties. There were some other policemen with him. The Inspector told both parties to stand apart, but they would not heed. They approached the Inspector. Several stones were being thrown. I heard the Inspector telling both parties that they should stand apart; otherwise he would have to open fire. I heard the noise of a shot and then both parties separated. Afterwards some other policemen -- arrived and then I came back. I did not see the Superintendent arrive on the spot. It seemed to me that the moolahs and the fishermen were likely to come to blows in close contact. I thought that several people would have sustained injuries and there would have been deaths if the two parties had come to blows in close contact. I think that the firing of the shot prevented both parties from coming to blows. The fishermen had brought iron rods tied with ropes with a hook at the end. These rods were as long as my outstretched arms. I pay two rupees Municipal tax yearly.

Sd/ Mammunhi

Taken down by me, read over to the deponent in Malayalam by T. V. Kunhi Kannan and admitted by the deponent to be correctly recorded.

Sd/ G. W. Wells,

8. 5. 1929.

Dt. Magistrate.

(True copy)

Mehta 10529

Dt. Magistrate.

Ex 26

Statement of Kunhi Mohideen Kutty son of Hussein of Golikatta bazaar, caste, moplah, occupation, merchant, exporting rice.

I live in Mangalore and have lived here about 20 years. I remember last Monday. While I was buying rice I heard that there was trouble going on between the Muslims and the Mogers beyond Kandadpalli in Kudroli. Then I set out for [illegible] saw the Mogers and the Muslims fighting in crowds hitting each other. The Inspector was between both parties pushing them away with his -- hands. I heard the Inspector shouting to both parties to get apart. He was saying "stand apart". Both parties came into contach with each other. I heard the noise of a shot. I saw a man falling down. After that both the parties separated from each other. I came back. I thought that but for the shot there would be so many deaths. Both parties had cudgels and knives. I saw long knives. I had seen some harpoons from a distance. I saw the Police Superintendent arrive. I saw stones being thrown. I do not pay land assessment but my tarwad pays it. I do not know how much.

Interpreted to the deponent in Malayalam by T. V. Kunhi Kannan, Accountant, Collector's Office, and admitted by deponent to be correctly recorded.

Sd/ G. W. Wells,

8. 5. 1929.
Dt. Magistrate.

(True copy)

Dt. Magistrate 10/5/29.

27

Sub Magistrate's Office,
Mangalore, 5th May '29.

From

The Stationary II Class Magistrate,
M a n g a l o r e.

To

The District Magistrate,
South Kanara.

Sir,

Rioting - Communal - Fishermen and Moplahs - report --- submitted.

I understand that a rioting took place between 5 and 5.30 P.M. yesterday on the Kudroli road and particularly infront of the -- Nadupalli Mosque between the Fishermen and Moplahs when the former were carrying a dead body with Bhajan party and that it subsided as soon as the Dt. Superintendent of Police hastened to the locality with a few reserve constables. It is said that the rioting was not of a serious character and that the injuries sustained by a few men on both sides are not serious. The rioters appear to -- have dispersed immediately on the arrival of the Dt. Superintendent of Police and the dead body lying on the road was subsequently -- removed by the Fishermen and taken to the cremation ground. No -- lives have been lost during the struggle. The rioting has completely stopped and business in the locality is going on as usual.

2. I received no information regarding the disturbance on the date of the occurence. I saw the Dt. Superintendent of Police at about 9 A.M. today and both of us inspected the locality. Some tile pieces and pieces of laterite stones were found lying scattered on the road in front of the mosque and also within the mosque --- compound. The damage done to the roof of the mosque was also -- noticeable.

3. The case is being investigated by the Police and I --- received the F.I. report at 10 P.M. today. The Police have registered the case under section 148 I.P.C. which is triable by ~~the~~ a I Class Magistrate.

Your obedient servant,

(Sd) K.Krishnaya,

II Class Magistrate, 5-5-29.

True Copy.

Dt. Magistrate. 1054.

Stationary Sub-Magistrate's Office,

Mangalore, Dated 6-5-1929 (8 P.M.)

From

The Stationary II Class Magistrate;

Mangalore.

To

The District Magistrate,

South Kanara.

Sir,

Rioting - Communal - Moplas and Fishermen - Kudroli (Mangalore Town) - Further to my report dated 5-5-1929.

While I was busy today with the hearing a criminal case, the Superintendent of Police drove to the office compound and informed me that there was trouble again in Kudroli and requested me to accompany him to the disturbed area. We drove immediately to the Police Office, collected some armed Reserve men and hastened in a bus to the locality. As we drove through the Golikatta bazaar, we noticed that all the shops had been closed. We found a large crowd of Moplas armed with cudgels, swords and other dangerous and deadly weapons, collected as far as Kandathpalli Mosque and on the other side, Fishermen had collected in large numbers also armed with cudgels and deadly weapons. As the situation was found to be uncontrolable and as a large crowd of 3 to 4 thousand men had collected bent on fighting, we considered that the situation required that the mob should be dispersed by charging them with the butt-end of carbines. This was the least we could do under the circumstances to disperse the angry and infuriated mob. So the Police began the butt-end charge. This produced the desired result and the mob was ~~quickly~~ quietly dispersed without causing any unnecessary violence to the crowd. The cudgels and swords &c. with which the crowd was armed were promptly seized by the Police. We brought the situation well under control and the Police used the minimum force to disperse the mob. The experiences of

the District Superintendent in the recent disturbances in Madras in connection with the arrival of the Simon Commission, were of immense use to us and saved the situation. But for the timely action taken by us, the situation would have gone out of control and there should have been a serious rioting causing heavy casualties. As order was being restored in Kudroli, we received information that there was trouble in the Azizuddin road and Bolar. I hastened to these localities with Inspector Mr. Sch'mnad and S.I.Mr. Rama taking sufficient armed men with us but fortunately there was no disturbance in those places. Wherever we found collection of crowds on the roads, we dispersed them peacefully without using any violence.

2. Just before the Superintendent of Police and I reached the disturbed area, Messrs Sch'mnad (Inspector) and Furtado (S.I were on the spot trying to disperse the mob. It is said that as the situation became uncontrolable, Mr. Sch'mnad had to fire with his revolver with the result that one Mopla was killed. This is what I gathered from Mr. Sch'mnad himself. The Superintendent of Police and I did not, however, find the body of this Mopla when we reached the locality. There is no information as to how many persons have been injured. There appears to be only one death so far.

3. The Superintendent of Police has arranged regular patrols in and around the disturbed area and the situation is well in hand.

4. I am inclined to think that the rioting was the result of premeditated action and that both the parties were fully prepared for the fight. The incidents of 4-5-1929 must have been rankling in the minds of both the parties and the alleged conduct of the Moplas in interfering with a funeral procession and attacking the dead body of a Fisherwoman, appears to have greatly annoyed the Fishermen who seem to have mobilised their men to give a striking blow to the Moplas. The Moplas were also fully prepared for the fight and had mustered strong to exhibit their martial spirit.

30

Your obedient servant,

Sd/- K. Krishnayya,

II Class Magistrate.

6-5-1929.

(True Copy)

Mch 10.5.29

Dt. Magistrate

Mon
10.5.29

31

12

C.

POSTS TELEGRAPHS

NOTICE.

This form must accompany any any inquiry made respecting this Telegram.

CHIEF SECRETARIAT

12 MAY 1929

Rs. As.

Handed in at (Office of Origin.)	Date.	Hour.	Minute.	Service Instructions.	Words.
Simla	11	14	-	ste	31

TO Madras Cotacamund

Recd. here at 10 [illegible] M.

8th

Notice your telegram may not mudrok mangalore Govt would be glad if details as to cause and course of disturbance could be furnished Home

§. S.—The name of the Sender, if telegraphed, is written after the text.

Karim Bux Bros., Printers, Calcutta—868 (B-135)—22-12-27—80,000 Bks.

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32

Public Department

Letter No. 710 - 2 dt 17/5/29

To

The Secretary to the Govt. of India

Home Department.

(~~2~~ 4 copies)

Sir,

Hindu-Moslem disturbances - Mangalore. Your telegram dated 11-5-29.

I am directed to give the following further details of the riotings that took place in Mangalore as reported in my telegram ~~No.~~ dated 8th May 1929

2. ~~The origin of this trouble goes back to~~ the end of last year when an outbreak of cholera in ~~Mangalore~~ the town ~~produced~~ led to a large number of propitiatory demonstrations and processions by various Hindu communities among which the ~~Moger~~ or ~~of~~ fishermen body was one of the most prominent. On the 7th. 8th and 9th of December 1928, such processions had trouble with Muhammadans over the passing of a mosque with cymbals and other music. The first day the procession dispersed on the protests of the Muhammadans and on the second the police were on the scene and by an agreement the procession passed with muffled music. On the third day there was an affray between the Muhammadans and the processionists in which a few people were slightly injured. The police and the Sub Magistrate had to repair to the scene. In view of the obviously developing friction, an order

X vide para 9 of Govt NO 541 15.6.27 Z h.2

h.31 CF.

h.2 CF.

Communal Riots between Hindus & Muhammadans h 12-15 CF more in Mangalore at

h 13 CF.

h - 13 CF.

under section 144 Cr.P.C. was passed on the 10th. prohibiting all Hindu communities from pàaying tom-tom in front of mosques. On the 24th of the month the Gowd Saraswats, a ~~the~~ prominent Hindu community of the town, asked for permission to take their deity past the same mosque with music in accordance with ~~the~~ a right which they asserted was theirs. The D.S.P. tried to effect a compromise but this attempt failing, issued a notice under the Police Act that the Hindu leaders must take out a licence for their procession. Rather than do so, they gave up their festival altogether. On the 15th of January this year, a Moger festival was due. The Muhammadans of the neighbourhood declared to the D.S.P. that the Mogers intended to take their procession with music past another mosque in their area. The Mogers were amenable to the D.S.P's warnings and took their procession by a different route. On the 16th February 1929 the annual festival of the Gowd Saraswat community was due. The order under section 144 had expired. The Muhammdans petitioned the D.S.P. against ~~this~~ an alleged intention of the Saraswats to go past the mosque in procession with music. The D.S.P. was able to prevail upon them to give up music pending their decision of a civil suit on the matter which had been instituted. On the 27th March a festival which occurs only once in 12 years fell due, and the route prescribed was due to pass another mosque. The Muhammadans of this area protested and

p. 13 Cf

pp 13-14 Cf

p. 14

asked for the procession to be prohibited. On the intercession of the D.S.P. an agreement was reached as to the places where music should stop and where it might begin again.

h·15 CF

Thus from small beginnings this trouble regarding music before mosques ~~became~~ had grown to ~~the nature of~~ a serious problem. On every one of the occasions recorded the Hindus came off second ~~~~ best. This was not likely to escape the notice of a certain element among them nor was it likely to lower the pride or contumacy of the ~~extreme~~ Moslems.

h-15CF

3. The actual incident from which the trouble this month arose was when onethe 4th of May the corpse of a Moger woman was being carried to the cremation ground along a road which is the direct ~~access~~ route to that ground. The funeral party was of the usual type, ~~of~~ pall-bearers and a number of relatives and caste-men. By the time it reached a mosque, known as Pusaliyars it numbered about 60.) When it reached the mosque, a number of Moplahs rushed out of their houses and prevented it from proceeding on the ground that the music (normally played on such occasions) was not stopped. An altercation ensued in which 10 persons in all were injured. The police were quickly on the spot ~~and after~~ and found the parties fighting. They were separated and the fighting stopped and after a brief enquiry the police directed

h-6CF

h·7 CF.

the procession to proceed. It came to another mosque, the Nadupalli. Here again a number of Moplahs and other Moslems came forward, this time armed with knives and clubs and in spite of the injunctions of the Sub Inspr. present, assaulted the procession. Stone-throwing followed as an inevitable consequence. The fighting spread and the Sub Inspr. present being unable to control the situation went for the D.S.P. This officer immediately proceeded in his car with the available armed men of the reserve and stone-throwing stopped as he appeared. Both parties made vociferous protests to him. The fishermen were afraid to continue with their funeral and a small detachment of police were sent to escort it. The corpse incidentally was found ~~detached~~ removed from the bier and about 6 feet away from it. The procession went on and the crowds dispersed and the D.S.P. left a small force of armed reserve on the scene and arranged for patrols during the night.

4. Subsequent examination of the mosque showed that the damage noticed in it was not the result of stone-throwing but that some of the tiles had been deliberately removed and used as missiles, obviously by the Muhammadan protestants.

5. The following day the D.S.P. heard that the Mogers were holding a mass meeting in a village some 7 miles off Mangalore, to discuss how they should protest against the attack on the

funeral procession the day before. About 2 o'clock information came that a large body of Mogers ~~were~~ was marching down the road on which the previous day's disturbances had taken place, ~~determined to take their~~ bent on revenge. The Moplahs in turn had mustered ~~too~~. The reserve was standing by and were at once summoned and the Circle Inspr. himself with a Sub Inspr. went immediately to the spot. When he got there the two parties had already started fighting and stones were being thrown freely. The Inspr. forced his way into the crowd and tried to separate the mobs but without success. The only result of his action was that he and the Sub Inspr. were completely isolated in the midst of two enraged ~~xxxx~~ parties, determined on fighting. Both parties it should be noted, were armed with knives, clubs, harpoons, pieces of piping and other articles effected as weapons. The Inspr. concluded that his position and that of his Sub Inspr. was very grave and that unless stern measures were taken, the two ~~groups~~ mobs would get to grips and with probably ~~very~~ grave and ~~enormous~~ numerous casualties. He thereupon warned the crowd that he was about to fire and this warning being disregarded fired one shot which killed ~~one~~ a Moplah named Manu Beary. As a result of this action the two mobs separated although they were still in great excitement and shook defiantly their weapons

at each other. the ~~deadly~~ motley weapons with which they were armed. The D.S.P. with the Stationary Sub Magistrate commandeered the first bus/ and repaired to the scene with a posse of ~~the~~ armed reserve. They found all the shops and houses closed on the street which was packed with armed Moplahs so that futth progress was impossible. The D.S.P. formed up his men and ordered the mob to disperse but ~~very few did so~~ they paid no heed. The Sub Magistrate ~~xxxx

have been 1500 on each side. The number injured was 7 Moplahs and 23 fishermen. One man was killed. Two are described as grievously but not fatally injured and all the remainder are simple injuries.

7. Feelings between the communities are estranged but the situation is in hand and no further serious developments are anticipated. The Govt. of Madras are ~~inclined to think~~ of the opinion that the Inspr. cannot be blamed for his action in firing the round from his revolver having regard to the dangerous position in into which he with his Sub Inspr. had got.

I have etc.,

On the information at present before them

P. 12 CF

P. 16 CF.
& 12 CF.

hmj 13.5.29.

all 13.5.29

39

P U B L I C DEPARTMENT.

Subject:

Rioting--Mangalore--[illegible]th May 1929.

Ref No. C, - 4301 - 29.

S t a t i o n: Mangalore. Dated 28th May 1929.

From

G. W. Wells, Esq, M.A. I.C.S.,
District Magistrate, South Kanara.

To

The Chief Secretary to the
Government of Madras,
Public Department,
STONE HOUSE HILL, NILGIRIS.

S i r,

In continuation of my report Ref. C--I--4301/29 dated 10th May 1929, I submit for your information a copy of a report R. C. No. 821/Genl 29 dated 25th May 1929 addressed by the District Superintendent of Police, South Kanara, to the Inspector General of Police.

4-5 supra

44-41 infra

Your obedient servant,

Dt. Magistrate.

P. C. No 80/Gen/29

Office of the Dt. Supdt. of Police, S.K.,
Mangalore, 25th May 1929.

From

M.R.Ry., N. Ramanujiengar, Avl., B.A.,
Dt. Superintendent of Police,
South Kanara.

To

The Inspector-General of Police,
MADRAS.

Intro. The Dy. Inspector-General of Police,
SOUTHERN RAnge. And
The District Magistrate, South Kanara.

Sir,

Further to my report dated 10th May 1929 I have the honour to report that owing to the present communal tension at Mangalore with the previous consent of the Sub Divisional Magistrate orders under Section 30 (2) of the Indian Police Act V of 1861 were passed on 19-5-1929 requiring the Mahommedans both at Mangalore and Udipi to take out licences for their processions in connection with the Bakrid. The Mahommedans at both places having applied for licences they were granted under strict conditions and necessary police arrangements were made for the safe and orderly conduct of these processions. I personally supervised the arrangements at Mangalore and the procession was conducted in a most orderly manner. About 1200 Muslims had foregathered and were marched in "fours" led by the police and under police protection. The processionists conformed themselves to all the conditions of the licence, and the "Id" went off peacefully, in both places.

At the ill advice of some busy bodies some of the taxi and jutka drivers were induced to stay away at home without plying their taxies and jutkas on the day of the Bakrid. This was intended as a reprisal against the Mahommedans to prevent them from engaging the vehicles as per their wont and driving about the town gaily dressed. As this would have put the public to inconvenience, I promptly got some of the vehicles to ply on pain of their licences being cancelled if they did not.

The thoughtless advice to strike has recoiled on

the advisers themselves who have now come in for a share of adverse criticism from the public; so that some of the Hindus now feel that their cause has been weakened by this impolitic measure. This I trust would lead to a speedier rapprochement of the two communities.

On 21-5-1929 the Sub Divisional Magistrate, Mangalore passed orders on the Security cases put up by the police --- binding over 9 Moplahs and 5 Mogers (Fishermen) under Sec. 107 Cr.P.C. This, and the action of the police on the 6th have set the parties thinking of the un-wisdom of taking the law into their own hands and attempts are being made by both -- sides for an amicable settlement.

At present the situation is quite quiet and normal.

I have the honour to be,

S i r,

Your most obedient servant

Dt. Superintendent of Police, S.K.

U.P.S./25-5-29.

Pub. Dept

Memo No 7/0-3—D—21/6/29

Riots Hindu-Muslim disturbances — Mangalore — Reports from the D.M. of S. Kanara Ref. no. C1-301-29 dt. 28/5/1929 [10-5-1929]

The D.M. of South Kanara is asked to send to Govt in due course copies of judgment and orders on any cases arising out of the incident.

ATN 16/6/29

To the D.M. of S. Kanara

R.D. 21.8.29

43

C.F. 80.

Public DEPARTMENT.

Received ..... 192 . *Registered* ..... 192 .

Subject.

Hindu Muslim disturbances - Mangalore - copies of orders and Judgments - Government Memorandum No.7/0-3 Public dated 21-6-1929.

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p.42 ante

ENCLOSURES.
No .....
.....
Spare copies .....

Ref.Cl.~~No.~~-5633-29.

Station Mangalore. *Dated the* 10th July, 1929.

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,

(Designation) Dt. Magistrate of South Kanara.

To The Chief Secretary to the Government of Madras,

Public Department,

Madras.

Sir,

I enclose a copy of the order of the Sub-Divisional Magistrate, Mangalore Division in each of the two security cases Mis.cases 7 and 8 of 1929 on his file, in which the prominent persons on either side were bound over to keep the peace for a period of one year.

2. The cases relating to the rioting are now on the file of the Sub-divisional Magistrate, Puttur. I shall submit copies of his judgments, as soon as the cases are disposed of.

Your obedient servant,

G. W. Wells

For Dt.Magistrate.

10.7.29

PROCEEDINGS OF THE SUB DIVISIONAL I CLASS MAGISTRATE, Mangalore Division, dated 21st May 1929.

Miseellaneous Case No.7/1929.

Present: M. R. Ry. M. J. Pais, Avergal, B.A.

KING EMPEROR: ... ... Petitioner.

Versus

1. Hussainabba Beary, son of Bava Beary,
2. Bava Beary son of Abbu Beary.
3. Cheriyun Beary son of Pokare Beary.
4. Abdulla Beary son of Pokare Beary.
5. Manji Katu Beary son of Hasane Beary.
6. Khadri Beary son of Sheke Beary.
7. Ismali Beary son of Hammabba Beary.
8. Kandathpalli Hussainabba Beary son of Unhi Beary.
9. Hammabba Beary son of Iddinabba Beary.

Nos.1 to 7 and 9 are residents of Kudroli, No.8, Kandathpalli, Mangalore Town.

) Counter-Petitioners.

Order under Section 107 Crl.Pro.Code.

The Inspector of Police, Mudabidri Circle, on special duty in Mangalore having reported that the nine counter-petitioners are likely to commit a breach of the peace, an order under Section 112 C.P.C. was passed calling on the counter-petitioners to show cause why they should not be ordered to execute bonds for Rs 100/- each with two sureties for a like amount each for keeping the peace for one year under Section 107 C.P.C.

2. The facts of the case are these: There has been a good deal of communal tension in the town of Mangalore since about the end of last year, between the Muhammadans on the one hand and the Hindus in general on the other. In November last there was an out-break of Cholera in the town. Bhajana parties were arranged by several sections of the Hindu community. Early in December when one of these parties was passing in front of the Shah Meer Mosque in Basavanagudi street, the Muhammadans obstructed them. The next day the police were on the spot and the Bhajana party was allowed to pass the Mosque with vocal music only. There was on the third day a fracas between the Muhammadans and the members of the Bhajana party which consisted of Gowda Saraswaths. As it was apprehended that a breach of the peace might take place when Bhajana Parties went past mosques with music, an order under Section 144 C.P.C. was passed by

the local Sub-Magistrate on 10-12-1928 prohibiting all Hindus from taking Bhajanas with music in front of mosques.

3. Soon after, the Gowd Saraswaths applied to the Sub-Magistrate for permission to take their diety with music past the Shah Meer Mosque on the Ananta Chaturdasi day (11-9-29). The then District Superintendent of Police with a view to effect a compromise between the parties held a conference of the leaders but the conference fell through, the permission applied for was refused and the Gowd Saraswaths were ordered to take out a license for going out with procession. The license was not taken out ~~for going~~ neither was there any procession. It appears that a civil suit has been filed by the Hindus and it is still pending.

4. In January, February and March last there were respectively the Mariyudi festival at Boloor, the Venkatramana Car festival in Kasba Bazaar and the Mariyudi festival at Bolar. There were petitions for police aid by the Muhammadans to prevent processions with music from passing in front of mosques. Interference by the police and District Superintendent of Police prevented ---- breach of the peace on all these occasions.

5. While the feelings between the parties were in the strained condition, a funeral procession of the fishermen community with music passed along the Kudroli street on the afternoon of 4-5-1929. The funeral was of a fisherwoman from Moige (Bolar) and the procession had to pass several mosques before it could reach the cremation ground at Bokkapatna. When the procession reached the Pusiar mosque, there was a fight between the Muhammadans and the fishermen forming the procession and persons on each side were injured. There is no evidence as to who actually provoked this fight. When the police got information of the fight and proceeded to the locality, P.W.-11, the acting Sub-Inspector of the Town Station who was the first police officer to reach the spot found three or four Moplahs lying injured in the mosque. He also found the other with the dead body of a Hindu lying on the road.

There was a crowd of fishermen near by and two fishermen were found with injuries in the Bhajana mandir. One of these had serious injuries. ~~in t~~ P.W.-11 recorded his statement and sent the injured moplahs and fishermen to the hospital. In the meanwhile P.W.-1, the Sub-Inspector of the Town Station, arrived there. He found crowds of moplahs on the road from the Bhajana Mandir as far as Nadupalli, which the funeral procession had to pass before going to the cremation ground. P.W.-1 asked the fishermen not to proceed with the procession till he asked them to do so and he himself proceeded towards the Nadupalli. He found lot of moplahs in the Nadupalli itself. He found the situation serious and was drafting a report to the District Superintendent of Police when he saw the funeral procession proceeding towards him. When it reached within two or three yards of the mosque the moplahs from the mosque raised the cry "Dheen" and all the moplahs from the mosque and on the road who were armed with cudgels etc. fell on the procession. The bier was pulled down and thrown on the road and the dead body was separated from it. There was pelting of stones. P.W.-1 ran in his cycle and reported ~~to~~ the matter to the District Superintendent of Police. The nine counter-petitioners were the principal persons who incited the mob of moplahs to proceed and beat the fishermen. One of the moplahs actually went with a cudgel to beat the dead body which was away from the bier but P.W.-11 pushed him aside. By the time the District Superintendent arrived, the hand to hand fight was still but there was pelting of stones on either side. The District Superintendent of Police restored peace and induced four fishermen to carry the dead body to the cremation ground escorted by a Sub-Inspector and some constables. A police guard was posted near the place to prevent future mischief.

6. There was nothing of importance on the 5th. On the 6th there were rumours that fishermen were collected in large numbers and were holding meetings about 6 or 7 miles away from Mangalore. At about 2 p.m. information was received in the town police station that a large body of fishermen had crossed

crossed the river and were actually marching with their face Mudroli road at that cross roads the moplahs were proceeding north to meet them. P.W.-10, the Circle Inspector of Police, also was in the station at the time was Sub-Inspector, P.W.-1, -- at once proceeded to the locality after sending intimation to the District Superintendent of Police and to the Reserve Police and also after asking the acting Sub-Inspector, P.W.-11, to come up with all the available men and arms from the Taluk ---- Station. P.Ws.-1 and 10 found the two crowds facing each other near the Mudroli bridge. Each crowd was more than 1000 strong and each was armed with knives, swords, cudgels and other deadly weapons. There was indiscriminate pelting of stones on each side. The --- crowds would not separate and fall back. The men at the head of the crowds were freely using their weapons and P.W.-10 was surround -ed on all sides. He fired his revolver once and then the moplahs receded a little. Reinforcement from the Taluk Stations arrived by this time and P.W.-1, 10 and 11 and some more men pushed back the two crowds. At this time, the District Superintendent of Police (P.W.-2) the Sub-Magistrate (P.W.-3) with a contingent of armed reserves arrived. They had to cut their way through the moplahs crowd before they could reach the head of the crowd. They found almost all the shops in the lower bazaar or Golikatta street through which the moplahs crowd was passing, closed. The crowd would not disperse when ordered and the Sub-Magistrate declared it to be an unlawful assembly and requested the District Superin-tendent of Police to disperse it with such force as was absolutely neces-sary. The District Superintendent of Police charged the crowd with the butt-end of carbines, disarmed them and arrested several of them. After dealing with the moplah crowd, the District Superintendent of police simi-larly dealt with the fishermen crowd which had by this time been pushed back to the north of the Mudroli bridge. P.Ws.-1 and 11 have been all the counter-petitioners in this crowd inciting their companions to proceed and beat and P.W.-10 has seen all of them except counter-petitioners 1 and 8. After quiet was restored pickets and patrols were posted in several places in the town and they continue to this day.

7. The above facts are spoken to by P.Ws.-1, 2, 3, 10 and 11 ex-cepting the fact that the mob was incited by the nine counter-petitioners,

the other facts enumerated above are practically admitted by the counter-petitioners. The other prosecution witnesses examined in the case are P.W.-4. the Sub-Magistrate. who passed the order under Section 144 C.P.C. in December last. P.Ws.-5 6 and 8 who speak of stray assaults on poor innocent fishermen and a billava on the morning of 6-5-1929 P.Ws.-7 and 9 the two medical officers, who examined the injuries on the persons beaten on the 4th and 6th and P.W.-12 Mr. Fowler near whose Tile factory the incidents of the 4th and6th occurred.. On account of the incidents of the 4th. P.W.-12 sent his wife and child away from his bungalow for safety and they were brought back only on the night that day after peace was res-tored and a guard of policemen was posted in his compound.

8. The counter-petitioners in their statements deny that they have taken part in the incidents of the 4th and 6th. D.Ws.-1 and 2 have been examined to prove that counter-petitioner-8 was suffering from fever from the 3rd till the 12th. Counter-petitioner-8's house is very close to the scene of offence of the 6th and is within a furlong or two of the scene of offence of the 4th. The evidence of D.W.-1 who appears to have treated counter-petitioner-8 shows that he could walk. In the face of the evidence of P.Ws.-1 and 11. I am not prepared to hold that counter-petitioner-8 was not present at the two occurrences. D.W.-3 has been examined to prove that counter-petitioner-1 was in the Taluk Office on the 4th from about 3 P.M. to 5.30 P.M. it is alleged that counter-petitioner had received an order from the Taluk Office to appear there to receive back a document filed by him. The order referred to has not been filed nor did counter-petitioner-1 get back ~~the~~ a document inspite of the waiting for three hourse at the interference of D.W.-3. I am not pre-pared to believe D.W.-3. , D.W.-4 who seems to be a respectable man in the Muhammadan community says that he has been counter-peti-tioners-1, 6, 7 and 8 together on the road in front of the Jumma mosque at about 3.30 P.M. on the 6th and D.W.-5 says that he saw absent counter-petitioners: 1. 6 and 7 near the Police Station at

about 2 P.M. The police station is at an [illegible] of the encroachment on the public street along which the Moplah crowd went on the 6th to meet the Hindu funeral crowd. The [illegible] is further on on the same road. The evidence of these witnesses does not therefore disprove that counter-petitioners-1, 5, 7 and 9 could not take part in the occurrence of the 6th. P.W.-6 was not examined to prove that counter-petitioner-3 was in [illegible] from 2-5-1929 to 6-5-1929 till about 10 A.M. He admits that counter-petitioner-3 is not related to him and that [illegible] the only occasion when he visited the village. This witness does not [illegible] even the correct name of counter-petitioner-3 and is hardly worthy of belief. P.W.-6 says that counter-petitioner-2 was in his house at Addyar on the 4th from about 12 noon till 7.30 P.M. This witness admits that there was a criminal case against him and some others and that four of the accused in the case were fined; but he does not remember if he was one of those four. The witness is utterly unworthy of belief. P.W.-7 was been examined to prove that counter-petitioners 4 and 5 attended a funeral in Abbu Peary's house on 4-5-1929 and that they were there from 4 or 4.30 till 6 P.M. Abbu Peary has not been examined. It is admitted that the funeral took place after 6 P.M. The occurrence at Mudroli was long before that.

9. There is thus no doubt in my mind that all the counter-petitioners were present on both the occasions and that on both the occasions they incited the mob to commit rioting without the least provocation on the 6th. It is in evidence that the Hindu women in the funeral processions are not armed and that they were singing songs without the usual accompaniments. The procession was attacked before it came in front of the mosque and the dead-body of a woman was dragged off from the bier and an attempt was made to beat it. If the Moplahs had any real grievance they could have represented matters to the Police officers who were present there. Instead of doing so they have taken the law into their own hands and committed attrocities in a most high handed fashion. It is represented on behalf of the counter-petitioners that they are not likely to repeat such acts and that they are not to be bound over on account of the past action.

I concede that the counter-petitioners are not to be bound over because they committed rioting on the 4th or on the 5th. The point for consideration is whether they are likely to commit a breach of the peace or disturb public tranquility. It is amply proved that the tension between the parties is so great that police guards and patrols have to be continued to this day. For some days immediately after these occurrences, the fisher-women did not go to the market to sell fish lest they should be molested on the way by the moplahs. The result was that the town had no fish for two or three days. I have therefore no doubt in my mind that the counter-petitioners are likely to commit wrongful acts which may occasion a dis-turbance of the peace, and I direct under Section 118 C.P.C. that each of them should execute a bond for Rs1000/- with two sureties for a like amount each to keep the peace for a period of one year

Sd/ M. S. Pais
21-5-1929
Sub-Divisional Magistrate.

All the counter-petitioners have executed the bond as per above order.

21-5-1929. Sd/ M. S. Pais,
Sub-Divisional Magistrate.

Appendix.

Witnesses examined for the prosecution:

1. Mr. A. Furtado (Sub- Inspector). 2. Mr. N. Ramanuja Iyengar. (D.S.
3. Mr. K. Krishnaya. Stationary Sub- Magistrate, Mangalore.
4. Mr. V.K.S.Shastri (Sub-Magistrate). 5. K. Sundara (P.C.No.59)
6. Mr. M. Ramappa. (Revenue Officeer). 7. Mr.M.Jacob.(Sub.Astt.Surg
8. Kodialbail Thimmappa. 9. Mr.S.Shanker Rao(Sub.Astt.Surg.).
10. Mr.M.Schamanad (Circle Inspector). 11.Mr.Ramakrishna(Ag.Sub.Ins
111 Mr. J. R. Fowler,

Witnesses on behalf of the Counter-petitioners.

1.Dr.M.T.Kamath. 2. U.Ananda Rao. 3. Muhammad Kassim.
4. Abdul Khadir Assadi. 5. Hammade Beary. 6. Addvar Ahamade Beary.
7. Valli Abdulla Beary. 8. A.Akbar Khan Saheb.

Exhibits filed on behalf of the petitioners:

A. Order of the Stry.Sub.-Magistrate, Mangalore, dated 10-12-28 under section 144 C.R.C.
B. Order dated 19-12-1928 passed by the District Superintendant of police to take out license for processions.
C. Petition dated 28-1-29 from Hussainabba (Counter-petitioner-I) to the Circle Inspector.
D. Petition dated 18-3-1929 from Muslim residents of Bolar to the District Superintendant of Police.
E. Petition dated 28-1-29 from Muslim residents of Kudroli to

the District Superintendent of Police.

F. Report dated 6-6-1929 from the Chairman, Bangalore Municipal Council to the Station House Officer, [illegible] Town.

G. Report dated 6-6-1929 from P.C.50 to the Town Station.

H. Petition dated 7-6-1929 received from Moosa and Basu Mandon to P.W.-2 (Dt.Superintendent of Police).

J. Wound certificate granted to Thimmappa (P.W.-8).

K. Petition dated 26-1-1929 from Hussainabba (Counter-petitioner-1) to the Dt.Superintendent of Police.

L. Petition dated 26-1-1929 from Hussainabba (Counter-petitioner-1) to the Circle Inspector.

For Counter-petitioners: Nil.

(S/ [illegible] S. Pais,
[illegible]
Sub-Divisional Magistrate.

/True copy/

Sub-Divisional Magistrate. 3.7.29

A.D.S./1-7.

2.7.29

502

PROCEEDINGS OF THE SUB DIVISIONAL I CLASS MAGISTRATE..MANGALORE DIVISION, dated: 21st May 1929.

Miscellaneous Case No. 8 of 1929.

Present: M. R. Ry. M. S. Pais, Avl., B. A.

KING EMPEROR (By Prosg.Inspector of Police)... Petitioner.

Versus

1. Paradeshi Marakala nephew of Ammu.
2. Thyamapa Gurikara nephew of Madana Marakala
3. Bokkapatna Kanthoo Marakala, n/o Madana Marakala.
4. Bokkapatna Poovanna Marakala. n/o Dooma Marakala.
5. Uggânna Marakala, n/o Ammanna Marakala.
6. Amtekai Guruvappa, n/o Panji.
7. Panambur Rama, n/o Angara Marakala.

Nos. 1,2, 3 and 6 residents of Kudroli, 4 & 5 residents of Bokkapatna and 7 of Panambur.

By Advocate Mr.N.N.Suvarna.

Counter-Petitioners.

Order under Section 107 Crl.Pro.Code.

On receiving information from the Inspector of Police, Mudabidri Circle, on Special duty in Mangalore, that the seven Counter-petitioners who are members of the fisherman community are likely to commit a breach of the peace, an order under Section 112 Criminal Procedure Code was passed, calling on the Counter-petitioners to show cause why they should not be ordered to execute bonds each for Rs 100/- with two sureties for a like amount each for keeping the peace for a period of one year under Section 107 Criminal Procedure Code.

2. The facts of the case are these:- In November last year, there was an epimedic of Cholera in the town of Mangalore Bhajana parties were arranged to be taken along the streets of the town by different sections of the Hindu Community evidently to appease the goddess Mari. When one of the parties was passing in front of the Shah Meer Mosque in the Basavanagudi street the Muhammadans obstructed the procession. The next day there was a sort of compromise but on the 3rd night there was again a fracas between the Muhammadans and the Hindus. On 10-12-1928 the then Sub-Magistrate of Mangalore passed an order under Section 144 C.P.C. (Exhibit A) prohibiting all Hindus from taking Bhajana processions with music in front of mosques.

An objection petition was filed but was later on withdrawn. The Jodi Brahmath committee applied for permission to take out a procession with music on the Ekadasi day (24 December 1928). They were asked by the District Superintendent of Police to take out a license. They refused to take out a license and did not take any procession.

3. In January, February and March last there were the -- Marigudi festival at Bolur, the car festival in the Venkatramana temple and the Marigudi festival at Bolar. On each of these --- occasions the Muhammadans anticipated trouble and filed petitions requesting police aid to prevent processions from passing in front of the Mosques. Timely intereference by the police averted trouble on all these occasions; but the feeling between the Hindus on the one side and the Muhammadans on the other were very strained.

4. On the evening of 4-5-1929 the funeral procession of -- fishermen from the Koige Bazaar with the dead body of a woman passed along the Kudroli road. It was obstructed by Moplahs near the Pudlar mosque and some persons on both sides were injured. The police from the town station arrived there and when the procession with the dead body again advanced further it was again attacked, the bier was thrown down and the dead body was separated from it. The Sub-Inspector P.W.-1 who was present at the time, ran in his cycle to give information to -- the District Superintendant of Police, who arrived with a contingent of armed men and restored peace and order and had the dead body carried to the cremation ground under Police escort.

5. There was quiet on the 5th. On the morning of the 6th the District Superintendant of Police received information that the fishermen of 14 "patnas" (villages) were holding a Kootam at Baikampadi, a - village, seven miles to the north of Mangalore. P-W.9 an I.D. head -- constable was deputed to gather informations as to what the object of --- this Kootam was. At about 2 P.M. when the Circle Inspector P.W.-2 was in the Police station, taking down statements from persons in connection with the incidients of the4th, he got information that a large crowd of fishermen armed with deadly weapons had crossed the river and were ro-

-ceeding south along the Mudroli road. He at once sent word to the District Superintendant of Police and the Reserve Inspector, asked acting Sub-Inspector P.W.-3, to proceed to the Taluk station and follow to the scene with all available men and arms and he -- himself proceeded to the locality in a carriage with the Sub-Ins- -pector, P.W.-1. They went to the Azeezudin road and got into the lower bazaar or Golikatta road a little to the south of Kandath- -pallli. There was a crowd of Moplas to their south and an equally big crowd of fishermen to their north. The two crowds had actually come in contact with each other and all the attempts proved futile. P.W.-2 was surrounded on all sides and he fired his revolver once, hitting a moplah. The moplah then receded a little. P.Ws.3 and 4 and a few constables from the Taluk station then arrived and with their assistance P.Ws.-1 and 2 were able to push back the -- two crowds who were armed and were pelting stones at each other. The District Superintendant of Police, P.W.11, the Sub-Magistrate P.W.-7 and a contingent of armed police arrived by this time. They had come along the lower bazaar road and they had to disarm and dispersethe moplah crowd on their way by charging them by the butt-end of their carbines as they would not disperse even when the crowd was declared to be an unlawful assembly by the Magis- -trate and ordered to disperse. When the District Superintendant of Police and the Magistrate arrived at the head of the moplah --- crowd where P.W.-2 was pushing them back, they found that the --- fishermen crowd had been pushed back by P.W.-1 and his men to the other side of the Mudroli bridge. This crowd was also armed with deadly weapons and would not disperse when ordered. They were -- similarly dealt with and disarmed and their parties were rounded up. Quiet was restored soon after. In this crowd P.W.-1 identi- -fied counter-petitioners- 1, 3, 5 and 7, P.W.2 identified counter -petitioners 1, 5 and 6, P.W.-3 identified counter-petitioners 3, and 6 and P.W.-4 identified counter-petitioners 1 to 5. All --- these prosecution witnesses say that the counter-petitioners --- identified by them were all inciting the mob and encouraging them to advance.

6. The facts enumerated above are spoken to by P.Ws-1 to 4, 7 and 11 and except the fact of inciting by the counter-petitioners the other facts are not seriously disputed by the defence. P.W.-6 who was the Sub-Magistrate in December proves the order passed by him under Section 144 C.P.C. and also proves the tense feeling that existed between the parties then. P.Ws.-5 and 8 are the medical officers who examined the persons both moplas and hindus injured on the 4th and the 6th. P.W.-13 is a clerk of the Collector's office living near (~~near~~) Pusiar --- mosque, who apprehended danger from the fishermen again on the night of 6-5-1929 and wrote the letter, Exhibit H, to P.W.-2 to post a guard at -- Kudroli. P.Ws.-10, 14 and 15 speak of the apprehension of moplah coolies working under them and their refusal to go to work in their boats on the 7th day out of fear of the fisherman. A Posse of police were actually -- given by the District Superintendant of Police to protect these men when taking the boats to the steamer for loading and unloading cargo. P.W. 12, Mr. Fowler is the manager of the Kudroli Tile Factory very close to the scene of the 4th and 6th. On the 4th he sent his wife and child to Beppu on account of the disturbed condition that day and on the 6th he was seen the mob near his factory -- admittedly the mob of fishermen and had actually disarmed several of the mob after the arri-val of the District Superintendent of Police.

7. One and all the counter-petitioners plead alibi and the further state that the incident on the 4th was an unprovoked wanton attack on the part of the moplas on a peaceful funeral procession, that the fishermen were engaged on [illegible] Kumbhravi to col-lect funds for litigation expenses when they got information that moplahs were assembled in large numbers [illegible] were mer-cilessly assaulting innocent fishermen [illegible]. They there-fore marched in a body to the station to [illegible]. They sa-[illegible] were armed but they say that they were unarmed [illegible] and not on the 6th.

8. No witnesses [illegible] for the accused. [illegible] P.Ws.-7 and 11 [illegible] have been examined to prove [illegible] counter-petitioners and P. [illegible] -

-fence counsel's office from about 9 A.M. till about 2.30 P. on 6-5-1929. They had gone there to give instructions to --- their counsel to draft the petition. Exhibit V. which the counsel took to the District Superintendent of Police's bun-galow at about 2 P.M. The District Superintendent of ---- Police admits that the counsel came to him in his bungalow with the petition when he was taking his meals and that he asked the counsel to present it to him in his office. Subsequent-ly it was presented to the District Superintendent of Police on the road near the counsel's office when the District Su-perintendent of Police was engaged in commandeering a bus to carry his armed reserve to the scene of disturbance. The petition is signed by D.W.-22 and the marks of counter-petitioner-2 and another. Counter-petitioner-5 is not one of the signatories to the petition. The petition was actual-ly presented by the counsel to whom the three signatories had given a vakalat and the signatories or counter-petitioner 5 did not appear before the District Superintendent of Police. They had no business to remain in the counsel's office after they had signed the petition and the vakalat and if they were really with him the counsel was the best witness to speak to their presence with him and he would not have certainly taken up the engagement in this case when he knew that he was such an important witness to prove the innocence of two of the counter-petitioners for whom he is defending. I am not pre-pared to accept the alibi evidence. It is however to be observed that the only person who identified counter-petition-er-2 in crowd is P.W.-4. The other police officers did not see him in the crowd and in view of the fact that he was one of the signatories to the petition he was probably not in the crowd and I accordingly discharge counter-petitioner-2 under Section 119 C.P.C. I cannot hold the same view in regard to counter-petitioner-5. He was not a signatory to the petition and he was identified by P.Ws.-1, 2 and 3. --- there could be no mistake about him. I therefore hold that counter-petitioner-5 was in the crowd on 6-5-1929 as alleged

by the prosecution.

9. D.W.-8 has been examined to prove the alibi of counter-petitioner-1. D.W.-8 is the nephew of the proprietor of the Satyanarayana Tile Factory at Mudroli. He says that counter-petitioner-1 was in his factory till about 3 or 3.15 P.M. on 6-5-1929 doing nothing. The factory is close to the Mudroli road by which the fisherman crowd passed that day and the crowd was seen by D.W.-8 and counter-petitioner-1. I do not believe D.W.-8 when he says that counter-petitioner-1 was in his factory while P.Ws.-1, 2 and 5 swear that they had seen counter-petitioner-1 in the crowd inciting the mob. Similarly, I am not prepared to accept the evidence of D.W.-10 when he says that counter-petitioner-6 was with him from about 1.30 P. till about 3 or 3.30 P.M. on the 6th. Counter-petitioner 6 and D.W.-10 are neighbours. Counter-petitioner was identified Gunnaffa by P.Ws.-2 and 3 and there is absolutely no reason to disbelieve them.

10. Counter-petitioner was one of the persons who received an injury on the 4th. D.W.-17 says that he was treating him for the injury and that he found him in his dispensary on the 6th, when he returned from Bangalore by the fast passenger train which generally arrives in Bangalore at 2.10 P.M. The dispensary is within 2 or 3 furlongs from the scene of offence and in view of the fact that P.Ws.-1, 3 and 5 identified counter-petitioner-6 in the crowd it is just possible that he went to the dispensary after the occurrence. I am therefore not inclined to believe the alibi set up by the counter-petitioner.

11. D.W.-18 speaks to the presence of counter-petitioner-4 in one Srinivasa Shanbhog's shop in Mudi about 19 miles from Bangalore. It is [illegible] arrange for buying firewood from Srinivasa Shanbhog and D.W.-1 went there to borrow jewels from [illegible] Srinivasa [illegible] alibi and even if --

[illegible] P.M. [illegible]

-cient time to reach Mangalore by bus by 2 P.M. after which the occurrence took place. I hold that counter-petitioner-4's alibi has not been proved.

12. There remains the alibi evidence of D.W.-19 in re-gard to counter-petitioner-7. D.W.-19 had given a sick certi-ficate to counter-petitioner-7 on the 1st May to excuse him from appearing before the Bantwal Sub-Magistrate on the 2nd and in that certificate he has stated that ten days rest was abso-lutely necessary. D.W.-19 further states that counter-petition-er-7 was under his treatment at Bolur for about ten days from the 1st, that he was extremely weak on the 5th, 6th and 7th and was not in a position to leave his house. Counter-petitioner-7 has been identified by only P.W.-1 and not by another prosecu-tion witness. I accept the alibi of this counter-petitioner and discharged him under Section 119 C.P.C.

13. The other defence witnesses examined in the case speak to the stray assault by moplahs on fishermen way-farers after 11 A.M. on 6-6-1929 and before the occurrence on that day which was soon after 2 P.M. These occurrences are in them-selves not important except to prove the state of the feelings between the parties, just like the incidents spoken to by the prosecution witnesses: 10, 13, 14 and 15. But an attempt is made by the defence to show that the fishermen community has been wronged and provoked from the very beginning and their march along Kudroli on 6-6-1929 was nothing but a peaceful march to seek redress from the authorities, that the arms they carried were for the purpose of defending themselves in case of attack and that they without any resistance laid down their arms when called on to do so.

14. The man who carried the news of the several assaults and of the arrest of the fishermen. D.W.-1, who was actually as-saulted by the moplahs to the members assembled in the meeting was D.W.-21. The assaults and the arrest of which he got in-formation had actually taken place after 11.30 A.M. D.W.-21

is a school master on the sandspit opposite the bunder and he lives near his school. He could not get information of these occurrences before 12 or 12.30 at the earliest and he could not reach the place of the meeting which is in Thannirbhavi village before 1 or 1-30 P.M. Tannirbhavi is more than 1½ miles from Kudroli and there is a river to cross. The crowd was on the kudroli road long before 2 P.M. In fact the Circle Inspector got information at 2 P.M. that the fishermen were already on the Kudroli road and marching south. Their march could not have been due to their getting information of the assaults nor could it have been merely for the purpose representing their grievances to the authorities and seek redress. If that were their object they would have certainly avoided the Kudroli road which is the strong hold of Moplahs. They cross the river in their own boats; they could have got down in the bunder which is less than a furlong from the Collector's office and within a furlong or two from the police station. The injustice done to them by the moplahs on the 4th and the desecration of the dead body of a woman must have been rankling in their minds and their object in maching over the very road on which they were dishonoured and insulted seems to me to be no other than wreaking vengeance on the moplahs at whose hands they suffered these inequities. The allegation that it was a peaceful crowd, that it surrendered and peacefully dispersed when ordered is belied by the evidence of not only all the Police Officers including the District Superintendent of Police who were present on the occasion but also of the Sub-Magistrate and Mr. Fowler who can possibly have no bias against the fishermen. I have no doubt that the members of the crowd intended to take the law into their own hands and punish the moplahs in the best way they could. The timely arrival of the police alone saved the situation and prevented heavy bloodshed. The strained feelings has not cooled down yet and the replies given by the defence witnesses themselves show that if an opportunity occurs itself, the incident of the 6th might be repeated. I find it necessary therefore that for the sake of the peace of the town, counter-petitioners: 1, 3, 4, 5 and 6 who have been proved to have incited the other members of the mob should be bound over to keep the peace. I therefore

order under Section 118 C.P.C. that counter-petitioners: 1, 3, 4, 5 and 6 should each execute a bond for Rs 100/- with two sureties for a like amount each for keeping the peace for a period of one year.

21-5-1929. Sd/ M. S. Pais,
Sub-Divisional Magistrate.

Counter-petitioners: 1, 3, 4, 5 and 6 have executed the bonds as per above order.

21-5-1929. Sd/ M. S. Pais,
Sub-Divisional Magistrate.

A p p e n d i x.

Witnesses examined for the petitioner:

1. Mr.A.Furtado (Sub-Inspector); 2. Mr.M.Schammad(Circle Inspector.
3. Mr. Ramakrishna(Ag.Sub-Inspector). 4. P.Mesquith (H.C.No.53)
5. Mr.S.Shanker Rao(Sub-Asstt.Surg.).6. Mr.V.K.S.Shastri(Sub-Magistrate.)
7. Mr.K.Krishnaya(Sub-Magistrate). 8. Mr.M.Jacob(Sub-Asstt.Surg.)
9. G.B.Vas (H.C.No.475). 10. U. Shrinivasa Mallya.
11. Mr.N.Ramanuja Ayyangar (Dt.Superintendent of Police).
12. Mr.J.R.Fowler. 13. Mr. A. M. Khan.
14. Mr. W.F. Ruffle. 15. Mr.Charles D'Rozario.

Witnesses examined for counter-petitioners;

1. Narayana Putranna. 2. Mr. M. Ramappa, Rev.Officer, Municipal office, Mangalore.
3. Mr.A.Sadashiva Rao(Sub-Inspector).4. Mr.H.Sankara Rao (Try. Dy.Collector).
5. Sundera (P.C.No.50). 6. Subbaya Naika (Ag.Hd.Const.).
7. Mahabala Rai. 8. Naganna Heggade. 9. Gopala.
10. Pandith Ramappa. 11. Narappa Pakkala. 12. Thimappa(Kodialbail)
13. Thimmappa(Ullal). 14. Somaya. 15. Gurumma
16. Mundappa. 17. Mr.N.Upendra Poi. 18. Somappa.
19. Mr.P.Venkat Rao. 20. Koraga Mundan. 21. Krishnappa.
22. Lakshmana Gurikara. 23. M. Balakrishna (Clerk)

Exhibits filed for petitioner

A. Order of the Stry.Sub-Magistrate, Mangalore dated 10-12-28 under Section 144 C.P.C.

B. Order dated 19-12-1928 passed by the District Superintendent of Police to take out licenses for processions.

C. Petition dated 28-1-1929 from Hussainabba to the Circle Inspector.

D. Petition dated 18-3-1929 from Muslim residents of Bolar to the District Superintendent of Police.

61

E. Petition dated 23-1-1929 from the Muslim residents of Mudroli to the District Superintendent of Police.

F. District Superintendent of Police's memo dated 6-2-1929 to the Circle Inspector re: the meeting of the fishermen at Bolikam-padi.

G. Petition dated 9-5-1929 from Tindal Abbas to the Port Officer.

Exhibits filed for counter-petitioners:

I. Report dated 6-5-1929 from the Chairman, M.M.C., to the Station House Officer, Mangalore Town.

II. Report dated 6-5-1929 from P.C.No.50 to the Town Station.

III. Memo dated 6-5-1929 from the Treasury Deputy Collector (D.W.-4) to the Manager, Police Office.

IV. Medical certificate granted to Counter-petitioner-7 by D.W.-19.

V. Petition dated 6-5-1929 by C.P.W.-22 and 2 others to the District Superintendent of Police.

Sd/- M. S. Pais,
21-5-1929
Sub-Divisional Magistrate.

/True copy/

3.7.29
Sub-Divisional Magistrate.

3.7.29

62

Public (Pl) Deptt

Memo No. 7/0-4. dt 21-8-29

Hindu-Moslem tension - Mangalore - Refer letter from the D.M of South Kanara, Ref Cl 5633-29 dt 10-7-29

The D.M of South Kanara is asked to state whether the riot cases on the file of the S.D.M, Puttur have been disposed of and if so when copies of judgments may be expected.

19.8.29

To the D.M of S. Kanara

RD. 20.9.29.

62 G.O. No. 3411 Public

G.F. 29--35,826—17-12-21

PUBLIC **DEPARTMENT.**

Received ..... 192 *Registered* ..... 31 AUG 1929 19

Subject.

Hindu-Muslim Tension - Mangalore - cases - copies of judgment.

Government Memorandum No.7/C-4 Public (General), dated 21st August 1929.

62 cite

ENCLOSURES.
No. .....
.....
Spare copies .....

Ref. C1- No. 5633-29.

Station Mangalore, *Dated the* 28th August 1929 :

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,

(Designation) Dt. Magistrate of South Kanara.

To The Chief Secretary to the Government of Madras,

Public Department,

Madras.

Sir,

The cases have not yet been disposed of by the Sub Divisional Magistrate. Puttur Division.

Your obedient servant,

For Dt. Magistrate.

29.8.29

M.D'S. 29/8.

64

Public (Gl) Dept

2/10.10

Memo No. 3411- I & 7-10-29

Humour - Muslim tension - Mangalore - Refer letter from the D.M of S. Kanara, Ref Cl. No. 5633-29 dt 28.8.29

p. 6307

The D.M of South Kanara is asked to state whether the cases on the file of the Sub-Divisional Magistrate, Puttur, have been disposed of and if so when copies of the ~~judgement~~ judgments may be expected.

To. The D.M of S. Kanara

4/10.29

Next RD 10.11.29.

4.10.29

C.F. 80.

Public (General) DEPARTMENT.

Received ..... 192 . *Registered* ..... 192 .

Subject.

Hindu-Muslim tension - Mangalore - Rioting cases - Government Memorandum No. 3411-1, Public (General), dated 7-10-1929.

4233 - Pub 29

UNDER SECRETARY 30 OCT 1929

ENCLOSURES.
No .....
.....
Spare copies .....

Ref.Cl. No. - 5633-29.

Station Mangalore *Dated the* 26th October 1929.

From (Name) C.W.Wells, Esquire, M.A., I.C.S.,

(Designation) Dt.Magistrate of South Kanara.

To The Chief Secretary to the Government of Madras,

Public (General) Department.

Madras.

Sir,

None of the three cases has been disposed of. The Sub Divisional Magistrate, Puttur Division, who is trying them says that he has posted all of them for arguments, two to 29-10-29 and the third to 30-10-29.

Your obedient servant,

for Dt.Magistrate.

Pub(C)/Dept

US

Submitted for perusal

Next RD 20.11.29

Noon 28.10.29

1-11-29

JK 1.11.29

C.F. 80.

Public (General) DEPARTMENT

Received ..... 192 . *Registered* 4577

ASSISTANT SECRETARY TO GOVT. 19 NOV 1929 CHIEF SECT.

Subject.

Hindu-Muslim disturbances - Mangalore - copies of judgment - submitted - Government Memorandum No. 7/0-3, Public, dated 21-6-29.

1 p 42 ante

ENCLOSURES.
No .....
.....
Spare copies .....

R.Dis. - ~~XX~~ 5633-29.

Station Mangalore, *Dated the* 14th November 1929.

From (Name) G.W.Wells, Esquire, M.A., I.C.S.,

(Designation) District Magistrate of South Kanara.

To The Chief Secretary to the Government of Madras,

Public (General) Department,

Madras.

Sir,

I enclose copies of the judgment in C.C. 71, 72 and 73 of 1929 on the file of the Sub Divisional Magistrate, Puttur Division. C.C. 71 and 72 being the cases relating to the --- incidents of 6-5-1929 and C.C. 73 of 1929 being the case --- relating to the incident of 4-5-1929, reported by me already.

× pp 102-119 infra
† pp 83-101 infra
φ pp 67-82 infra
see Mr 9-12 ante
see Mr 6-8 ante

Your obedient servant,

for Dt. Magistrate.

15.11.29

67

Cr. J. Mis.-124.—35,359—3-6-28

In the Court of the Sub Divisional I class Magistrate, Puttur Division.

JUDGMENT IN CALENDAR CASE NO. 73 1929 ON THE FILE OF THE Sub Divisional I class MAGISTRATE OF Puttur Division.

Dated this 9th. day of November 1929.

Present :- M. R. Ry. J. Balaji Rao Avergal. B. A.,

Complainant ... ... King emperor (Charge Sheet in F.I.R. No. 56/29 of Mangalore Town Station)

Accused ... ... 1. Gaslight Ahammad 2. Addu 3. Podia. 4. Moosabba 5. Pulthaje Hussien 6. Poochakan Yusuf. 7. Kokan alias Yusuf Sahib 8. Abbalabba. 9. Pokabba 10. Addikunhi — 11. Hotel Mammade.

Offence ... ... As charged by the Police Rioting armed with deadly weapons and offering indignity to a human corpse Sections 148 and 297 I.P.C. all charged in this Court. Against all - Rioting armed with deadly weapons Section 148 I.P.C. Against 1. 2. 3. 4, 8 and 9 - offering indignity to a human [illegible] 297 I.P.C. Against 3rd 5th and 7th Voluntarily causing hurt. Section 323 I.P.C.

Finding ... ... → Guilty Against 1 and 3 - Voluntarily causing hurt by dangerous weapons. Section 324 I.P.C.

Sentence ... ... Accused A1 and A3 - To pay a fine of Fifty one - Rs. 20/- for the offence under Section 148 I.P.C. and Rs. 31/- for that under Section 324 I.P.C, in default to Suffer R.I. for three months, A5 to pay a fine of Rs. 40/- Rs. 20/- for the offence under Section. 148 I.P.C. and Rs. 20/- for that under Section 323 I.P.C. in default to Suffer rigorous imprisonment for two months.

A. 2. 4. 6. 8. 9. 10 and 11 - to pay a fine of Rs. 20/- in default to Suffer rigorous imprisonment for one month each.

A 7- Released on probation of good conduct, on entering into a bond in a Sum of Rs. 50/- fifty with one Surety for a like amount to appear and receive Sentence when called upon during a period of one year from this date and in the meantime to keep the peace and be of good behaviour under Section 562(1) Cr. P.C.

Serial number.	Description of the Accused						Date of						Explanation of delay.
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age	Occurrence	Complaint.	Appearance ~~Apprehension.~~	Release on bail.	Commencement of trial.	Close of trial.	
1	2						3						4
1	Gaslight Ahammad	Moidin Beary	Moplah	gaslight trader	Mangalore	27	4.5.'29 at Kudroli in Mangalore.	charge sheet received by transfer on 2-7-'29	13-7-'29	13-7-'29	25-7-'29	31-10-'29	Judgment pronounced on 9-11-'29 Proceedings sent to District Superintendent of Police. Fine not paid
2	Addu	Abbu Beary	-do-	Trader	-do-	22							
3	Podia	Cheyya Beary	-do-	coffee-hotel keeper	-do-	30							
4	Moosabba	Hubsenabba	-do-	Trader	-do-	35							
5	Pulikaje Hubblin	Moidin Beary	-do-	-do-	-do-	50							
6	Poochakanna Yusuf	Ammad Beary	-do-	-do-	-do-	28							
7	Hakan alias Yusuf Sahib.	Puthu alias Ismail Sahib	-do-	Cart driver	-do-	18							
8	Abalabba	Hammabba	-do-	Trader	-do-	55				Accused released under Section 388 CP granting time till 25-11-'29			
9	Pokabba	Abdul Khader	-do-	Tinmaker.	-do-	40							
10	Addikunki	Hammadkunki	-do-	Tandel	-do-	40				Bond formed & executed under Sec:-562 C.P.C.			
11	Hotel Mammade	Hubblin Beary.	-do-	Hotel keeper	-do-	30							

Sd/- J. Balaji Rao
Sub Divisional Magistrate.

C. C. 73 of 1929.

Judgment

In Mangalore Town feelings between the Hindus and the Muhammadans became strained at about the end of last year in connection with making processions in front of mosques with music and an order under Section 144 Cr.P.C. was issued by the Stationary 2nd Class Magistrate, Mangalore in December 1928 prohibiting members of the Hindu community from playing any sort of music in front of mosques. Police aid was being sought for at the time of festivals in Temples and marigudis and there were petitions from the Muhammadans requesting Police bandobast and orders to prevent processions from going with music in front of mosques, (Exs: V and VI). There was thus a tension of feeling between the two communities at the time when the occurrence dealt with in this case happened.

2. On the 4th May 1929, a fisherwoman Ponnu by name (P.W.1's sister) died of consumption at about 3 A.M. in the Hoige Bazaar of Mangalore Town. The dead body was taken in procession with bhajana and music. It wended its way northwards towards the Bolur cremation ground which was over two miles away, ~~with~~ whither it was bound. It started in the passed by two mosques viz., Kandak and Dodda pallies without any trouble. When it reached the Pusalar Mosque at Kudroli at about 3 P.M. there was a fight between the moplahs and fishermen at which some persons on each side were injured. Acting Sub Inspector Mr. Ramakrihna (P.W.7) got information of the occurrence in front of the District Police office when he was on his way from his quarters to the Town Police station and started from the ~~station~~ station on his bicycle for the scene of the occurrence after instructing the Head constable (P.W.8)and some other --- Constables to hasten to the spot. He met at the Station P.W.1 who also informed him of the occurrence. He went to the Pusalar Mosque where he found four moplahs injured. He arranged to send them to the Police station for being sent to the Government Hospital and proceeded onwards. At the fisherman's Bhajana Mandir near the Hindustan School he saw two fishermen also ---

injured and some others with slight injuries and the dead body lying on the public road on the bier. He recorded a statement from Puva - one of the two injured fishermen - the injuries on whom were more serious than on the other injured persons and sent them to the hospital. The Sub Inspector Mr. Furtado -- (P.W.6) who happened to be in Bolur at the time, got information of the disturbance and came to Kudroli. P.W.8 and other Policemen also came there. P.W.6 went from there to Nadupalli which is about 100 yards to the north to see that no further trouble occurred there. He saw moplahs congregating in the mosque as well standing on the road outside. Apprehending a breach of the peace and fight he began to write a report to give information to the District Superintendent of Police. By that time, the funeral procession arrived, P.W.7 came a ----- little in advance of the procession and P.W.8 with constables accompanied the procession. When the procession was reaching the mosque, moplahs attacked the procession from the mosque armed with knives and sticks and beat the fishermen. Some of them caught hold of the bier of the corpse and pulled it down. --- There was a melee and confusion. P.W.6 and the other Police Officials present tried to pacify, but the fight became uncontrollable and there was pelting of stones on either side. P.W.6 byked to the Police office and gave information to the District Superintendent was hurried to the spot with a posse of Reserve men. The pelting of stones was stopped and the District Superintendent of Police pursuaded the fishermen to take the dead body and had it removed to the Bolur cremation ground. In the course of this fight P.Ws. 1,2,3 and 9 were injured. They were sent to the Government Hospital for --- treatment and certificates. The Medical Officer (P.W.10) examined them for the injuries and granted certificates Exs: B,C,D and E. P.W.7 recorded in the General Diary of the --- Station what happened on the occasion and this has been filed as Ex: F. A copy of the same was recorded as the First ---- Information Report (Ex IV) and investigation was made by the Circle Inspector of Police, Mudabidri. Before investigation

was taken up by him the Circle Inspector of Police, Mangalore (D.W.9) recorded on 5--5--29 complaints from some moplahs and fishermen who had been injured on 4--5--29. Ex: A is the complaint recorded from P.W.1.

3. This is the case for the prosecution. It has been testified to by ten witnesses examined on its behalf. P.W.1 is the deceased fisherwoman's brother and P.W.2 is another relation of hers who is said to have followed the procession from the Hoige bazaar. P.W.3 is a man of Moolki who happened to be passing by the way at the time. He was coming from Bolur and was hit with a stone by A.7 on the nose from about two marus away and cut with a sword by A.1. P.W.5 was one of the pall-bearers who carried the deadbody from the Hoige bazaar as also from the Nadupalli to the Bolur cremation ground after the fight. P.W.4 is a man of Bokkapatna which is to the north of Kudroli and south of Bolur and was one of the persons who carried the corpse from the Nadupalli onwards after the District Police Superintendents's arrival. P.W.9 is a resident of Kudroli and lives behind the Bhajana mandir. He accompanied the procession from the Bhajana Mandir but ran away after receiving injuries at the Nadupalli. A3 aimed a sword at him and the witness in trying to catch hold of it received injury on the hand. He also received a hit with a cudgel on his left heel from A.5. P.Ws. 6,7 and 8 are the Police Officials who were present with the Procession at the fight near Nadupalli and are eye-witnesses to the occurrence. P.W.10 is the Medical officer who granted the certificates Exs: B to E.

4. The accused deny the offence. They say that this case has been falsely brought against them with the connivance of the Police. They did not choose to cross-examine any of the P.Ws except the Medical Officer (P.W.10) before charge was framed.

5. The charge sheet filed and the evidence adduced on behalf of the prosecution in the case relate only to the incidents which took place near the Nadupalli. A prima facie case having been made out, a charge under section 148 I.P.C. was framed against

all the accused, under section 297 I.P.C against A1,2,3,4,8 and 9, under section 323 I.P.C against A3,5 and 7 for having caused hurt t P.Ws. 2,9 and 3 respectively and under section 324 I.P.C. against A1 and 3 for having caused hurt to P.Ws 3 and 9 respectively with a sword or knife. The accused pleaded not guilty, cross-examined all the Prosecution witnesses and examined twelve witnesses on their behalf.

6. D.Ws 2, 3 and 10 are the persons that were injured at the fight near the Pusalar mosque. D.W.11 is the Medical Officer who granted certificates (Exs: XIV, XV and XVI) for the injuries found on their person. He also examined A.11 on 4--5--29 but found no marks of injury on his person. D.W.7 is one of the Moktessors of the Nadupalli and D.W.8 lives about 20 marus from that mosque. They (D.Ws. 7 and 8) say that when the procession was nearing the Nadupalli with music, the Hindu Police officials were requested to ask the fishermen to stop the music, that on the Police officials turning a deaf ear to their request, the moplahs asked the fishermen to stop music and that the fishermen not only did not stop music but attacked the moplahs and there was a scuffle. D.W.9 is the Circle Inspector of Police Mangalore (Mr. Schamnad) who recorded complaints on 5--5--29 under the orders of the District Superintendent of Police. He proves the complaints recorded by him from P.Ws. 1,2, and 3and - D.Ws. 2,3,7, 10, and 12 filed as Exs: A, I, II, VIII, IX, X, XII and XI respectively. D.W.6 speaks to the alibi of A.10 and D.W.12 is the fisherman, Puva, one of the ~~tow~~ fishermen injured near the Pusalar Mosque. He was questioned about his complaint (Ex XI) but as he said that he did not remember having made the statements contained in it, he was treated as hostile and cross-examined. D.Ws1&7 speak to the incidents at the Pusalar mosque and the Nadupalli with reference to the defence version but neither of them is an eye-witness to the occurrence at either mosque. D.W.4 is the Mukri of the Pusalar mosque. He says that when he was sleeping in the mosque at about 3 or 3.30 P.M. he heard a noise in front of the mosque, went to the gate, and saw D.W.2 running towards the mosque being pursued by about fifteen fishermen. He

He pulled D.W.2 inside the Mosque, closed the door to prevent fishermen from entering the mosque, bolted the door from inside and opened it only after one Kattu Beari who had been to the Police station to give information of the occurrence returned and asked him to open it. He adds that he saw A.11 inside the mosque as also D.W.3 and says that he might have seen D.W.10 also inside the mosque.

7. There are three counts of charge against the accused viz., (i) rioting armed with deadly weapons (Section 148 I.P.C) (ii) offering indignity to the corpse or desecrating the dead body (Section 297 I.P.C.) and (iii) Hurt (Sections 323 and 324 I.P.C.).

It will be convenient to deal with each of these counts separately.

(i) Rioting :-

8. It has been argued on behalf of the defence that there was no fight near Nadupalli as alleged by the prosecution and that there was fight only near the Pusalar mosque as music was not stopped in front of that mosque as also in front of the two other mosques that had been passed by the procession before the Pusalar Mosque was reached. This contention is unacceptable. That there was a fight near the Pusalar mosque is not denied by the prosecution and it is equally clear from the evidence both prosecution as well as defence - that there was a fight near - the Nadupalli also. No doubt the Nadupalli is not mentioned as the scene of the occurrence in the ~~Firstor~~ First Information Report (Ex: IV) which is a copy of the General Diary (Ex: F) but even D.Ws. speak about the scuffle at Nadupalli and Ex: A gives details of the incidents at both the mosques. It is also in evidence that P.W.6 went on his cycle to the District Superintendent of Police from the Nadupalli and that it is to the Nadupalli that the District Superintendent of Police came with the posse of Reserve men. This contention is thus not borne out.

9. There is no evidence let in on behalf of the prosecution regarding the incidents that took place in front of the Puslar mosque. The defence Vakil has argued that the prosecution

has tried to suppress all evidence relating to those incidents. It, however, appears to me as argued by the Prosecuting ------ Inspector of Police that it is not a case of suppression but one where no independent and reliable evidence could be secured for there were then only moplahs on one side and the fishermen on the other and the Police arrived only subsequently. It seems also clear that the fight did not occur when the procession commenced music in front of Arll's coffee hotel after passing the Pusalar mosque as the fisherman witnesses want us to believe for there was no reason why the moplahs should have resented at it if there was really no music in front of the mosque. The evidence of the fisherman witnesses before this court is that only instrumental music was stopped in front of the Pusalar mosque and not vocal music (pada) but the complaints recorded by D.W.9 show that all music both instrumental as well as vocal - was stopped in front of the Pusalar mosque as also in front of the two previous mosques passed. It is not possible to say exactly which the correct version is; but it has to be pointed out that if every kind of music (both instrumental and vocal) had been stopped in front of the Pusalar mosque by the fishermen, it is not clear why there should have been a fight there at all. It seems more probable that there was some music in front of the Pusalar mosque which probably was resented by the moplahs and the result was there was a fight in front of that mosque.

10. According to the evidence of the fisherman ---- witnesses the Police officers were with the procession when it started from the Bhajana Mandir and proceeded to Nadupalli. The evidence of the Police officers, however, shows that it was not so. P.W.6 says that he went in advance to the Nadupalli to see that no further trouble occurred there and that the procession arrived about ten minutes after he reached Nadupalli. He also says that P.W.7 came to Nadupalli about five minutes earlier than the procession. It was only P.W.8 and the Constables that ---- accompanied the procession. It is noteworthy that while P.W.7 says that when he left the Bhajana Mandir he told the Head ---

and the constables not to allow the procession to start till he came back from Nadupalli, P.W.8 says that no such order was given to him by P.W.7. Evidently this contradiction is due to the anxiety on the part of P.Ws. 7 and 8 that that they should not be held responsible for what happened on account of the procession having been allowed to be taken. There seems to be however, absolutely no doubt that P.W.6 went to Nadupalli in advance of P.W.7 and that the latter went a little in advance of the procession.

11. The defence vakil has argued that the fisherman witnesses (i.e., P.Ws 1 to 5 and 9) should be considered as interested and that it is discrepant and unreliable. The defence has also attacked P.W.7 as being partial and their allegation is that it was with his active help and connivance that the procession was taken in front of the Nadupalli with music. They include P.W.6 also in this category. Whatever may be said of the quality of the evidence of P.Ws. 1,2,4,5 and 9 I do not think that the evidence of the Police witnesses (P.Ws. 6,7 and 8) can be called interested or unreliable. There is absolutely nothing that can be said against P.W.6 and his evidence is, I think, unimpeachable. His evidence is clear. He has stated that the procession was attacked by moplahs when it was one or two yards to the south of the Nadupalli building and when the dead body was about 20 or 25 yards to the south of the Mosque gate and that he did not see fishermen assaulting Moplahs. P.W.3 is a man of Moolki and I cannot bring myself to believe that his evidence is interested.

12. The defence version of the occurrence near Nadupalli is that the fishermen who were coming in procession with music would not stop the music in front of the mosque though asked to do so and that they (fishermen) attacked the moplahs who were obliged to run into the mosque for protection, and that the fishermen pelted stones at the mosque and caused considerable damage to the tiles. They are also stated to have broken the stones stucked at the head of the tombs of the graveyard, hammered the stones and thrown them. At the instance of the accused, I isnpected the scene of offence and

~~instance of the accused, I inspected the scene of offence~~ --- and found stones in the graveyard broken and tiles of mosque roof replaced by new ones in several places. My inspection, however, was on 29--10--29 i.e., more than five months after the occurrence. If the defence version that the fishermen did not stop music though they were asked to do so be true, I fail to see why the fisherman should have attacked the moplahs at all, asalleged by the defence.

13. My finding from the evidence on record is that the moplahs evidently exasperated at the procession having passed the Pusalar mosque with some music in front of it and at some of them having received injuries at the fight at that mosque gathered themselves in and near the Nadupalli and attacked the funeral procession of the fishermen when it re-started from the Bhajana Mandir with the ~~armed~~ crowd object of obstructing it. The evidence is that at the time, there were about a hundred fishermen and an equal number or more of moplahs. It may be that the fishermen after being attacked committed excesses, as is evident from the fact that they also pelted stones. It is, however, quite clear that the moplahs were the agressors and attacked the fishermen, armed with knives and cudgels, while the fishermen were unarmed.

14. Whether the fishermen were right in taking the procession with music in front of the mosque as they are alleged by the defence to have done and whether the moplahs were justified in obstructing the procession in enforcement of their right or supposed right are not questions which are relevant here. It has been argued by the Prosecuting Inspector of Police, even if the fishermen had taken the procession in front of the mosque with music, it was not open to the moplahs to take the law into their own hands and to obstruct it in the manner they are alleged to have done. It has been held that " to enforce a right or supposed right " (in the 4th clause of Section 141 I.P.C) show that it is "perfectly immaterial whether the act which one seeks to prevent by the use of Criminal force or show of criminal force is legal or illegal, the test of Criminality being the ------

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determination to use criminal force and act otherwise than in due course of law so as to threaten the public peace" (vide notes on page 304 of Ratan Lal's Law of Crimes, Eleventh edition). It has also been held that " where the accused assembled and forcibly interrupted a procession upon the ground that it was a nuisance or annoyance to them or their community it was held that their act clearly fell within clause 4 of section 141" (vide notes on page 305 ibid). In these circumstances I hold that the offence of rioting punishable under section 148 I.P.C hasbeen established against the moplahs who took part in the fighting near Nadupalli on 4--5--29.

15. The evidence of alibi adduced by A.10 loses much of its force as he did not raise that plea either when he was examined under section 342 Cr.P.C. or at any time after it before adducing evidence The evidence is that he worked as the tindal of a steam launch belonging to Messrs. J.D.Wayeda and Son from 8 A.M. to 7 P.M. on the day of the occurrence The person who speaks to it (D.W.6) is an ex-clerk of the firm which has been wound up for the purpose of liquidation, working in the office while the launch goes from the river into the sea. No attendance Register is maintained for tindals and it is curious that while the number of trips the launch makes is entered in an account of maintained by him (D.W.6) the information on the day in question was not noted by the witness but by some other person. I have no hesitation in rejecting this evidence as unworthy of credit.

16. A minor discepancy has been pointed out that while some P.Ws. say that they saw some of the accused coming from inside the mosque, others say that they were outside and vice versa. This is not, however, either a material one or an unaccountable one in that it could not have been that all the P.Ws. saw all the accused at one and the same moment and persons were moving to and fro in the melee.

17. P.W 6 had known A1 to 6 and 9 before the occurrence and P.W.7 had known A1 to 6 and 11. Both of them as also P.W.8 who are independent witnesses have seen all the accused taking part in the occurrence.

18. In these circumstances, I find all the eleven accused guilty of the offence of rioting punishable under section 148 I.P.C they have been charged with.

(ii) Desecrating of the dead body:-

19. The evidence as to which of the accused pulled the bier and threw it down is discrepant. P.Ws. 3,6 and 9 have not seen the pulling down of the bier and do not speak to it. P.Ws 1,2,4,5,7 and 8 are the persons that speak to it. All these are unanimous that A1 and A3 are two of the persons that pulled the bier. P.W.5 alone omits A.2, while P.Ws 2 and 4 alone include A.4. A.8 is made mention of by P.Ws. 5,7,and 8, A.9 by P.Ws. 1, 4, and 8 and A.10 by P.W.5 only. We have the admission of some P.Ws. that for the first time they are making mention of it only in this court and the fact is not mentioned in the first report (Exs: F and IV). Added to all this is the clear admission of P.W.1 in Ex: A that the pall bearers threw down the bier out of fear and ran away. I cannot therefore hold that this charge of offering indignity to the crpse has been brought home to the accused 1 to 4, 8 and 9 against whom the charge has been framed. The Prosecuting Inspector has not pressed the charge.

(iii) Hurt :-

20. P.W.3 is a man of Moolki and was a passer by at the time he received the injuries. In his complaint before the Circle Inspector, D.W.9, (Ex: II) he has given a description of the persons that caused him injuries and he has shown the persons ~~that caused him injuries and he has shown~~ in the court. The description given in Ex: II agrees with that of the persons pointed out by him. As already stated there is no reason to disbelieve him. No doubt Ex: II shows that he stated before D.W.9 that the fight took place near Jodupalli. As he has admitted in crossexamination that this was the first time he came to Mangalore, it is, likely that he made a mistake in saying Jodupalli instead of Nadupalli. I have no doubt in my mind that it is A.1 that cut him with a sword and A.7 that hit him with stone, as stated by him. The Medical evidence(Ex: D) is in support of his version.

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21. I do not think that P.W.9 has uttered falsehood when he says that A.3 (Poosa) came with a sword and waved it toward him, that he then caught hold of the blade with his left hand, (from he accordingly had injury on his left hand) that by that time A.5 aimed a blow at him with a cudgel and that it hit him on his left heel. The Medical evidence (Ex: E) supports him.

22. In his complaint (Ex:I) before D.W.9, P.W.2 has stated that after the body started from the Hoige Bazaar he went to the car street to purchase sandalwood etc for use at the cremation ground and that having heard of the fight at Kudroli and of the arrival of the Police, he went to the scene at Kudroli. He now denied having told so and says that he was with the procession throughout, till it --- reached the Pusalar mosque. I cannot hold in these circumstances that he is a truthful witness and that he has spoken the truth. The Prosecuting Inspector of Police objected to the admissibility of the complaints recorded by D.W.9 in the case on the ground that they come under statements falling within the purview of section 162 Cr.P.C. This view was not agreed in and the complaints were admitted. In view of what has been stated above I cannot give credence to P.W.2's version that he was hit by A.3 with a cudgel.

23, In the result I acquit/Al, 2, 3, 4, 8 and 9 under Sec: 258 (1) Cr.P.C of the charge under section 297 I.P.C framed against them and A.3 of the charge of voluntarity causing simple hurt to P.W.2 under section 323 I.P.C.

Desecrating dead body

24. I convict all the eleven accused under section 148 I.P.C, Al and A3 under section 324 I.P.C in addition and A.5 and A.7 under section 323 I.P.C. in addition and sentence them except A.7 as follows:-

Rioting

Al and A3 to pay a fine of Rs. Fifty one - Rs. 20 for the offence under section 148 I.P.C and Rs. 31 for that under section 324 I.P.C-in default to suffer rigorous imprisonment for three months, A5 to pay a fine of Rs. 40/- - Rs. 20 for the offence under section 148 I.P.C. and Rs. 20/- for that under section 323 I.P.C - in default to suffer

rigorous imprisionment for two months and A2,4,6,8,9,10 and 11 to pay a fine of Rs. 20/- in default to suffer rigorous imprisonment for one month.

25. A.2 and A7 gave out their age as 20 and 18 years respectively. The Medical Officer (C.W.1) who has examined them for their age says that A.2 will be about 21 years of age and below 22 years. I am also of the same opinion. A.2 is not therefore an adolescent offender or juvenile. The Medical Officer says that A.7 will be aged between 18 and 19 years. His appearance also shows likewise. He is therefore an adolescent offender. There has been no previous conviction against him. Having regard to his age and antecedents and the circumstances in which the offence was committed, it is, in my opinion, expedient that he should be released on probation of good conduct and so, instead of sentencing him to any punishment, I direct under section 562 (i) Cr.P.C. that he be released on his entering into a bond in a sum of Rupees Fifty with one surety for a like amount, to appear and receive sentence when called upon during a period of one from this date and in the meantime to keep the peace and be of good behaviour.

Pronounced in open court.

Puttur
9-11-29

(Sd) J. Balaji Rao.
Sub Divisional I Class Magistrate.

A p p e n d i x.

Witnesses examined for prosecution:-

1. Annappu.
2. Devappu.
3. Siddu.
4. Koraga.
5. Aithappa.
6. A.Furtado. Sub Inspector of Police Mangalore town.
7. H.Ramakrishna Acting Sub Inspector of Police.
8. Poovappa Shetty, Head Constable.
9. Rama.
10. Mr. Shanker Rao. Medical Officer.

Exhibits filed for:-

Prosecution:-

A. 5--5--29 Complaint of P.W.1 recorded by the Police.

B. 6--5--29 Wound certificate granted to P.W.1.

C. 10--5--29 do- granted to P.W.2.

D. 10--5--29 -do- granted to P.W.3.

E. 10--5--29 -do- granted to P.W.9,

F. 4--5--29 Report of P.W.7 in the general diary.

Defence :-

I 5--5--29 Portion of P.W.2's complaint recorded by the Police.

I(a) 5--5--29 -do-

II 5--5--29 Portion of P.W.3's complaint recorded by the Police.

II (a) 5--5--29 -do-

III.10--5--29 Portion in certified copy of the deposition of P.W.1 in Mhs. Case No. 7 of 1929 on the file of the Sub Divisional Magistrate, Mangalore.

IV. 4--5--29 First Information report No. 56/29 of Mangalore Town station.

V. 18--3--29 Certified copy of the petition to the Dt. Police Superintendent by Muhammadan residents of Bolar.

VI. 28--1--29 Certified copy of the petition to the Dt. Police Superintendent by the Muhammadan resident of Kudroli.

VII. 10--12--28 Certified copy of the order under section 144 C.P.C. in Mis. case 7/29 on the file of the Sub Magistrate, Mangalore.

VIII. 5--5--29 Complaint of D.W.2 recorded by the Police.

IX. 5--5--29 Complaint of D.W.3 recorded by the Police.

X. 6--5--29 Complaint of D,W.7 recorded by the Police.

XI, Xi(a), XI(B) 5--5--29 Statement of Poova.

XII. 5--5--29 ------- -do- of Moidin Sahib.

XIII.5--5--29 ------- -do- of Mahammade.

XIV 5--5--29 Wound certificate granted to Kasim Beary.

XV. -do- -do- to Abdul Khader.

XVI 5--5--29 Wound certificate granted to Moidin Beary.

Defence Witnesses:-

1.M. G. Mohidin.

2. Kasim Beary.

3. Abdul Kadri Beary.

4. Hammad Kutti..

5. Hakim Alli Sahet.

6. Hammabba Beary.

7. Hammabba Beary.

8. Sheik Hammad Sahib.

9. Mr. Schamnad. Circle Inspector of Police.

10 Moidin Sabiba.

11. Dr. Jacob.

12. Poova.

For Court-

1. Dr. P. by oral evidence.

Puttur,
9--11--1929.

(Sd) J. Balaji Rao.
Sub Divisional I Class Magistrate.

(True copy)

J Balaji Rao

Sub Divisional I Class Magistrate.

11.11.29

Cr. J. Mis.-124.—26,347—27-7-27.

In the Court of the Sub Divisional I class Magistrate Puttur Division.

JUDGMENT IN CALENDAR CASE NO. 72 92 9 ON THE FILE
OF THE Sub Divisional I class MAGISTRATE OF Puttur Division.

Dated the 9th day of November 1929.

Present:- M. R. Ry. J. Balaji Rao, Avergal, B.A.,

Complainant ... ... King Emperor (Charge Sheet in F.I.R. No. 58/29 of Mangalore Town Station)

Accused ... ... 1. Gaslight Ahmed 2. Addu 3. Shekabba 4. Podia 5. Kassim Beari 6. Abdul Kadir 7. Hotel Mammade 8. Piltaje Hussein 9. Ahmed Beary 10. Abalabba Beary 11. Moosabba Beary 12. Poochakanna Yusf Beary 13. Abbu alias Abdul Khan. 14. Seadi Mubri Beary. 15. Ahmed Beary. 16. Abdul Rahiman 17. Addinabba Beary. 18. Hussenabba 19. Hammabba 20. Chabu Beary. 21. Syed Abdul Rahiman 22. Abdul Kadir 23. Ahmed 24. Kokan alias Yusuf Sahib

Offence ... ... Rioting armed with deadly weapons. Section 148 I.P.C.

Finding ... ... Guilty

Sentence ... ... A/1 to 21 To undergo R.I. for three months each and to execute a bond for Rs. 50/- fifty with one Surety each for a like amount each, for keeping the peace for a period of one year from this date under Section 106 (i) Cr P.C.

A.22 to 24 - Released on probation of good conduct on entering into a bond in a sum of Rs. 50/- each with one Surety for a like amount each to appear and receive Sentence when called upon during a period of one year from this date and in the meantime to keep the peace and be of good behaviour under Sec 56 2 (i) Cr P.C

Serial number.	Description of the Accused						Date of						Explanation of delay.
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Release on bail.	Commencement of trial.	Close of trial.	
1	2						3						4
1	Gaslight Ahmed	Moidin Beary	Moplah	Gaslight Shop	Mangalore	26							
2	Addu	Abbu Beary	-Do-	Trader	-Do-	22							
3	Shekabba	Hussan Beary	-Do-	Tin Maker	-Do-	22							
4	Poodia	Cheyya Beary	-Do-	Hotelkeeper	-Do-	30							
5	Kassim Beary	Abdul Kadir Beary	-Do-	Boatman	-Do-	30							
6	Abdul Kadir Beary	Kunhambu Beary	-Do-	-Do-	-Do-	55							
7	Hotel Mammade	Husane Beary	-Do-	Hotelkeeper	-Do-	30							
8	Pilthaje Hoosein	Moidin Beary	-Do-	Trader	-Do-	45							
9	Ahmed Beary	Moidin Beary	-Do-	-Do-	-Do-	25							
10	Aballaba Beary	Hammabba Beary	-Do-	-Do-	-Do-	50							
11	Moosabba Beary	Husenabba Beary	-Do-	-Do-	-Do-	35							
12	Poochakanna Beary	Hammade Beary	-Do-	-Do-	-Do-	30							

Serial number.	Description of the Accused.						Date of						Explanation of delay.
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Appearance ~~Apprehension~~.	Release on bail.	Commencement of trial.	Close of trial.	
1	2						3						4
13	Abbu alias Abdul Khan	Yakub Khan Saheb	Muhammadan	Process-Server	Mangalore	25	5.7.'29 at Kudroli in Mangalore	charge sheet received by transfer on 2.7.'29	13.7.'29	13.7.'29	27.7.'29	29.10.'29	Judgment pronounced on 9.11.'29 Proceedings sent to District Superintendent of Police.
14	Seedimukri Beary	Mahammad Moilar	Moplah	Mukri	—Do—	49							
15	Ahmed Beary	Sheke Beary	—Do—	Trader	—Do—	28							
16	Abdul Rahiman	Abdul Khader	—Do—	Cooly	—Do—	22							
17	Addinabba Beary	Pakruddin Beary	—Do—	Trader	—Do—	45							
18	Hussenabba	Abbunhi Beary	—Do—	—Do—	—Do—	33			Bonds under Sec. 562 (i) & 106 (i) Cr.P.C. executed				
19	Hammabba	Koya Beary	—Do—	Cooly	—Do—	22							
20	Chabu Beary	Pokare Beary	—Do—	—Do—	—Do—	30			(Sd) J. Balaji Rao				
21	Syed Abdul Rahiman	Syed Haroon	—Do—	Teacher	—Do—	40			Sub Divisional Magistrate.				
22	Abdul Kadir	Abdul Haji	—Do—	Student	—Do—	18							
23	Ahmed	Syed Beary	—Do—	Boatman	—Do—	19							
24	Kokan alias Yusuf Sahib	Puttu alias Ismail Sahib	—Do—	Cart driver	—Do—	18							

Cr. J. Mis.-124.—26,347—27-7-27.

In the Court of the

JUDGMENT IN CALENDAR CASE No. 192 ON THE FILE

OF THE MAGISTRATE OF

Complainant ... ...

Accused ... ...

Offence ... ...

Finding ... ...

Sentence ... ...

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C. C. 72 of 1929.

Judgment.

This case and the connected cases C.C. 71 and 73 of 1929 on the file of this court have evoked sensation in Mangalore Town as they are the outcome of an inter-communal dispute - a --- dispute between the fisherman members of the Hindu community on one side and the Moplah members of the Muhammadan community on the other - the main cause of the dispute being the taking of processions with music in front of mosques. The trouble began in about November 1928 when, on account of the outbreak of cholera in Mangalore, several sects of the Hindu community started ---- bhajana to propitiate the goddess. There was a fracas in ---- December 1928 in front of the Shah Amir Mosque when a bhajana party of the Hari-Shets passed that mosque. An order under Sec: 144 Cr.P.C. was issued in the same month by the Stationary Sub Magistrate, Mangalore, prohibiting members of the Hindu community from playing any sort of music in front of mosques when passing in procession. Since then, feelings between the Hindus and the Muhammadans have been strained. There were petitions to the authorities from the Muhammadans regarding taking of music in front of mosques.

2. On the 4th May 1929 the dead body of a fisherwoman was taken in procession with bhajana and music from the Hoige bazaar and on its way to the Bolur cremation ground, there was a fight between the fishermen and the moplahs near the Pusiar ---- mosque near the Nadupalli in the presence of some Police officers who had gone to the locality after the fight at the Pusalar --- mosque. This fight forms the subject matter of C.C. 73 of 1929 just disposed of. On account of this incident and the alleged desecration of the dead body the tension of feeling between the fishermen and the moplahs became more intense and a Police picket was ~~sustained~~ stationed at Nadupalli as also a guard at the Common wealth Tile Factory just to the north of the Kudroli bridge to prevent a recurrence of the incidents of 4--5--29 as the moplahs were afraid of an attack by fishermen.

3. On the 6th May 1929 at about 2 P.M. when the Circle

Inspector of Police, Mr. Schamnad (P.W.1) was in the Town Police Station engaged in recording complaints from moplahs in regard - to the occurrence of the 4th May, some Moplahs rushed to the --- Police station and informed him that fishermen were coming armed via Kudroli and were advancing towards Golikatta. He atonce - proceeded to the spot in a jatka accompanied by the Sub Inspector Mr. Furtado (P.W.2), after directing the Acting Sub Inspector Mr. Ramakrishna (P.W.3), Head Constables Misquith (P.W.4), and Kumaran (P.W.5) and some others to go to the Taluk station, take carbines from there as there were no carbines in the Town station and follow him to the spot. P.Ws. 1 and 2 went in the jatka along the Azizuddin road and joined the main Golikatta bazaar road near the house of the late Vakil Mr. Usman Sahib. They saw at the time, crowds of moplahs going towards Kudroli armed with weapons and they had to wade their way through the crowds. They got down from the jatka near the Kandath palli and proceeded onwards. The road was covered with moplahs. A large crowd of fishermen was seen advancing from the opposite direction. When they reached the junction of the Basavangudi road with the Kudroli road there was a clash between the fisherman crowd and the moplah crowd and the two crowds exchanged blows with each other. Stones began to be pelted from the rear portions of the crowds. P.Ws. 1 and 2 tried to pacify the crowds and separate them but were unsuccessful in their attempt. They were hemned in from both sides. The position became precarious and there was imminent danger to person and property. P.W.1 fired a revolver shot in the crowd and this had the desired effect. P.Ws 1 and 2 were thereafter able to separate the two crowds from each other. With the aid of P.Ws 3,4,5 and others who had come there meanwhile, they were able to keep the crowds at bay. P.W.1 with two constables pushed back the moplah crowd towards the Golikatta bazaar southwards and P.W.2 with P.Ws. 3,4,and 5 checked the advance of the fishermen towards the moplah crowd i.e., south wards. The Dt. Superintendent of Police (P.W.11) to whom intimation had been sent by P.W.1 from the station came in a motor bus with armed Reserve force accompanied by the Stationary Sub Magistrate, ----- Mangalore (P.W.6) while proceeding along the Golikatta bazaar road

in the bus, P.W.6 and 11 saw all along the road as far as the Kudroli bridge a big gathering of moplahs armed with deadly weapons (knives, swords, sticks etc.,)m They (P.W.6 and 11) got down from the bus in some places and asked the mob to disperse. As the mob did not disperse, P.W.6 found the situation to be very serious, declared the mob to be an unlawful assembly and requested P.W.11 to disperse it with such force as was found to be absolutely necessary. With his (P.W.6's) consent and in his - immediate presence, the District Superintendent of Police(P.W.11) ordered his men to charge the crowd with the butt ends of carbines and in this way they went on dispersing the moplah mob till they reached the Kudroli bridge. P.W.11 arrested on the way some moplahs and put them in the bus. They were later on taken to the Police station and were released on bail the same evening. A.14 to 23 before the court are the persons from whom bailbonds (Exs: B, B1 to 9) were so taken by P.W.5 before release. The fisherman crowd was on the other side i.e., the northern side of the Kudroli bridge, similarly armed with deadly weapons. They were also dealt with and dispersed in the same way. Under the orders of the District Superintendent of Police, P.W.8 a Reserve sergeant rounded up the fisherman crowd near the Kudroli bridge and later on proceeded towards the moplah crowd and rounded up the moplahs near the Kandathpalli. He ascertained the names and addresses of the fishermen and the moplahs thus rounded up by him and sent later on a report(Ex D) containing the information gathered by him. The District Police Superintendent of Police seized the weapons recovered from the disarmed mob, brought them with him in the bus and has them in his custody under the orders of the Magistrate. P.W.1 recorded the occurrence in the First Information Report which is marked Ex: A. Investigation was made by the Circle Inspector of Police, Mudabidri, who was placed on Special duty for the purpose and a charge sheet has been laid against the twenty four accused before the court under section 148 & I.P.C.

4. This is the case for the prosecution. Thirteen witnesses have been examined on its behalf and an equal number for the defence. The part taken by P.W.s 1,2,3,4,5,6,8 and 11

has been mentioned above. P.Ws. 9 and 10 are Medical Officers ---- attached to the Government Hospital, Mangalore, who examined the persons alleged to have been injured at the riot. The wound certificates granted by them have been filed as Exs: E,F,G,H,J,K,L,M,N,P,Q, R,S,T and U. Exs: H and U relate to injuries found on A.4 and A3 -- respectively. The remaining certificates relate to injuries said to have been caused to fishermen. P.Ws, 7, 12 and 13 are three of the injured fishermen who were examined by the Medical officers. Exs: E and G and F are the certificates respectively relating to them. - These witnesses, however, do not support the case for the prosecution P.W.7 says that he was injured at about 10 A.M. and P.W. 12 says that he received the injuries at about noon to the north of Nadupalli which is to the north of the Kudroli bridge and P.W.13 says that he was beaten by A.10 and 11 at about 9 A.M. that day, while the ----- occurrence is alleged to have taken place between 3 and 3 P.M. to the south of the Kudroli bridge. As these witnesses i.e., P.Ws. 7,12 and 13 are among the twenty one accused in the connected case against the fishermen it cannot be expected that they would say that they received the injuries at the scene of the occurrence, even if that be true. The Sub Inspector Mr. Furtado (P.W.6) was himself hit with a stone and Ex: W evidences it.

5. The accused deny the offence. A prima facie case having been made out against them, a charge under section 148 I.P.C was framed against them. They pleaded not guilty and have examined thirteen witnesses on their behalf.

6. D.Ws. 1,2,5,6 and 13 speak about the arrest of A.14 to 23 by or under the orders of the D.S.P. in different places and say that while they (accused) were on the road unarmed and peacefully standing or going, they were asked to get into the bus and taken away. D.W.1 speaks to the arrest of A.22, D.W.2 to the arrest of A19 and 20 D.W.5 to that of A.15, 17, 18 and 23, D.W.6 to that of A16 and 21 and D.W.13 to that of A.14. It is noteworthy that these witnesses who are moplahs like the accused saw no unusual crowd at the time on the road This evidence of thiers is incredible in the face of the evidence of the District Police Superintendent and the Sub Magistrate (P.Ws.11 and 6) who say that they saw a big crowd of moplahs armed all along the

road. I cannot thus believe them.

D.Ws. 3 and 4 speak to the alibi of A.13 and D.Ws. 9 and 12 to the alibi of A.2 and A8. The evidence of alibi adduced loses much of its force as these accused did not raise that plea either when they were examined under section 342 Cr.P.C when they were called upon to enter upon their defence. The written statement they said they would file has not also been filed. D.W.3 is a man of Ullal and says that an injunction notice (Ex: I) was served upon him by A.13 on --- 6--5--29 at his house in Ullal which is about 2 miles from - Bandar. He cannot say definitely at what time of the day the notice was served upon him - whether before noon or after noon - nor is he able to say the week day. He mentions the date 6--5--29 with reference to the date noted on the notice which note was not, however made by him. The words "Copy received" (in kanarese) above the witness's signature and"the date "6--5--29" (in Kanarese) below it are in a pencil different from that with which the witness signed his name. Ex:I was returned to the District Munisiff's court only on 4--6--29. the re-opening day of the court after the Summer recess. Evidently it was in A.13's possession till then. So absolutely no value can be attached to the above mentioned entries which must have been made by A.13 himself. D.W.4 was also intended to speak to the same thing but his evidence is useless as he says that he did not point out the defendant (D.W.3) nor was he aware of the service of them notice at all.

D.W.9 is a clerk of the I Class Bench court, Mangalore. He files as Ex: II the bailbond taken from Addu (presumably A2) on 6--5--29 and as Exs: III and IV the summonses issued to Pilthaji Hussain and Addu (presumably A.8 and A.2) - the complainant and the accused respectively in B.C. No. 354 of 1929 on the file of the I Class Bench. It is curious that the bail bond was not taken by this witness as he was on leave on that day i.e., 6--5--29; but by some other person. His evidence is absolutely useless for the accused and does not prove that A.2 and A.8 were at the Bench Court that day. It is useful

only in so far as it shows that the I Class Bench court commences work generally at 2 P.M. and goes on till 5 P.M. and that summonses are issued to the parties to be present at 1 P.M. At what time the court sat on 6--5--29 at what time the case was called and at what time the bailbond was taken are not facts within his knowledge nor whether the complainant and the accused in the said case were A.8 and A.2 respectively. D.W. 12 says that he accompanied A.2 to the court that day to stand surety for him but did not actually stand surety as, meanwhile, A.2's brother himself arrived and stood surety for him. He adds that from 1 P.M. till 4.30 P. M, A.2 and himself were there together and that A.8 who came to the court about quarter of an hour after they reached the court also came there and was in the court till 4.30 P.M. The witness admits that A.2's brother came to the court at 3.30 P.M. and yet it is ------ inexplicable why he should have remained in the court till 4.30 P M M. I am not inclined to attach much weight to his evidence.

D.W.8 is an ex-constable and a watch repairer. He has his shop in front of the Town Police station. He says that at about 2 P.M. on the day of the offence a moplah boy and some ---- moplahs complained to the Inspector (P.W.1) that fishermen were marching armed towards Golikatta, that the Inspector went immediately with P.W.2 in a jatka taking some moplahs with him and asking the other moplahs about 30 in number - to stay behind. A1, 9, 10, 11 and 12 are some of the 30 moplahs who were left behind. A1 and 12 were on the road, and A9, 10 and 11 were in his shop till 4 P.M. In view of the fact that P.W.1 has himself stated that the number of moplahs who came and complained to him were only 6 or 8, I cannot believe this witness (D.W.8) when he says that over 30 moplahs came to the station.

D.Ws 7, 10, and 11 speak to the fact that it was the fishermen that were coming in aggressive mood in large numbers causing damage to houses and property. D.W.7 is, a clerk of District Munsif's court, living in Kudroli very near the Basavangudi junction. D.W. 10 lives in a house which is about 40 yards to the south of D.W.7's house. Both of them are moplahs. They say that they saw the fisher men crowd coming from the Bolbor side causing damage to houses and that when the crowd was nearing their houses they ran inside their houses and

closed the doors. The prosecution does not deny that the Fishermen marched in large numbers and acted in an aggressive spirit. There is a charge of rioting against the fishermen also (C.C.71 of 1929). When, however, these witnesses say that they did not see any ---- moplahs coming from the Kandathpalli side to meet the fishermen, that there was no gathering of moplahs and no clash between moplahs and fishermen, I must confess my inablity to acquiesce in what they say for their evidence on this point runs quite contra to the evidence of P.Ws 1 and 2 who were in the thick of the crowd hemmed in by both the parties and who are certainly more competent to speak about it than D.Ws 7 and 10 who, naturally, on account of fear, shut themselves up.

D.W.11 is a teacher in the Hidustan Bokkapatna School in Kudroli. He says that at about 1 P.M. on the day of the offence a large body of fishermen - about a thousand in number - came armed with cudgels, swords, and other deadly weapons, threw stones at the school building and other houses in the neighbourhood and caused considerable damage. The Hidustan School is at some distance to the north of the Kudroli bridge and as the prosecution version is that the moplah crowd were only to the south of the Kudroli bridge the evidence of this witness is not of much use to the accused. The defence evidence is thus not worthy of credit and helpful to the accused.

7. It has been argued on behalf of the defence that it cannot be held that the accused had any unlawful intention on their part such that they could be convicted of an offence under Section 148 & I.P.C. even if it be found that they were among the crowds of moplahs, it is said, were under impression that they were greatly injured, firstly because the funeral procession on the 4th May was taken in front of the mosques in defiance of the sentiment of Moplahs and secondly because considerable damage had been done to the Nadupalli mosque by the fishermen, throwing stones. It has been argued that in view of the state of considerable fright in which the moplahs were at the time and of the aggressive nature of the fisher men who, it is said, have been shown to have been bent on doing mischief the moplahs were entitled to protect themselves from the

aggression of the fishermen that, as the Golikatta bazaar is occupied mostly by Moplah houses and shops, as the evidence shows and as was pointed out to me at my local inspection, the moplahs were near their own homes for the purpose of acting in self defence which the law gives every one a right to and that it cannot therefore be held that the moplahs were members of an unlawful assembly. The holding of a meeting at the sandspit by the fishermen referred to in Ex: C (Complaint of Purusha - P.W.7) made the moplahs apprehensive of trouble from fishermen and it is argued that in such circumstances the moplahs were not wrong in having collected themselves. It has been replied to by the prosecution that the very fact relied upon by the defence that the funeral procession passed in front of mosques with music and that the Nadupalli was considerably damaged by the fishermen on 4--5--29 affords ample material to show that there was sufficient motive for the moplahs to muster strong for the purpose of organizing an attack against the fishermen and this is undoubtedly the reason for the gathering of the moplahs in such large numbers at the Golikatta bazaar, as the circumstances clearly show. The evidence is not that the accused were near their own houses to protect the houses from onslaught but that they were among the crowds who were marching towards Kudroli armed with weapons and that they took active part in the clash that took place. The circumstances spoken to by the Prosecution witnesses (Police officers and the Sub Magistrate) go clearly to show that the march of the moplah crowd armed with weapons was with a view to attack the fishermen and that their attitude was not such as indicated that they were peaceful and would submit to law. The i____tion of the moplah crowd to take the law into their own hands is thus clear and the contention on behalf of the defence that the accused had no unlawful intention is not tenable.

8. Secondly, it has been argued that the clash or exchange of blows between the moplahs and the fishermen spoken to by P.Ws. 1, 2 and 4 is a myth. None of the Medical certificates filed on behalf of the prosecution except Exs: H and T show that the injuries were due to exchange of blows with sticks or other weapons. They show that the injuries were due to either hits with stones or blows with the

gun. Ex: H relates to the injuries on A.4 and says that they were said to be due to blows with sticks, stones and knife. Ex: T is that of one Bolur Anantha who has not been examined as a witness in the case and this certificate shows that the injuries were said to be due to blows with sticks and stones. Exs: F and G which relate to the injuries on P.Ws. 13 and 12 respectively say that they were said to be due to blow with gun. In view of the particulars given in all the certificates except two that injuries were said to be due either to hits with stone or blow with gun it has been argued that there could not have been any clash or exchange of blows between the two parties and that accordingly the clash spoken to is false. It has been replied to by the Prosecution that the Medical certificates were filed to show that injuries were caused to persons of the opposite side and not that they were caused with sticks or knives and that as it is clear that they were caused by hit with stones, the circumstance is enough to establish an offence of rioting. The Prosecuting Inspector of Police has argued that to bring home an offence of rioting to the accused, it is not necessary to prove that the accused themselves threw stones and that it is enough if it is shown that any one or a few of the persons composing the unlawful assembly threw stones. Further, the District ~~Police~~ Superintendent of Police (P.W.11) has stated that when he met Mr Schamnad (P.W.1) went to the spot both parties began to fight and that though himself and the Sub Inspector P.W.2 tried to pacify them they did not stop the fight and the men in the rear began throwing stones against one another. The oral evidence of P.Ws. 1 and 2 is quite in accord with the first report and I do not think there is anything untruth at all in the evidence relating to clash or exchange of blows. This contention of the defence also falls to the ground.

9. P.Ws. 3,4 and 5 went together in a carriage from the Town Station shortly after the Circle Inspector had left it with P.W.2. They got down near the house of vakil Mr. Usman Sahib. A discrepancy is pointed out that while P.W.4 says that he saw the fight going on between the fishermen and the Moplahs

and that he was present when Mr. Schamnad the Circle Inspector fired the revolver, P.Ws 3&5 say that they did not see either the fight - or the firing and that when they went the two crowds were separate from each other. It is in evidence that though P.Ws. 3, 4, and 5 went together in the same carriage, it is P.W.4 that got down first from it. The place where they got down is at a little distance --- from the place of the clash, from which the clash could not be seen. After getting down from the carriage each went his own way mixed -- with crowd and it is argued for the prosecution that P.W.4 should, after getting down, have immediately rushed to the spot while the other two should have tarried behind - P.W.3 not being sufficiently agile and P.W. 5 being probably weak. I do not think that this circumstance goes in any way to disprove the clash, as the defence wants to make out by this discrepancy.

10. Thirdly, it has been argued whether in the great confusion and melee it would have been possible for P.Ws 1,2,3,4 and 5 to have identified at the place the persons pointed out by them as having taken part in the riot. P.W.1 has identified all the accused except A.14, 16, 17, 18, 19, 21, 22 and 23. His report (Ex: A) contains the names of all the persons pointed out by him. P.W.2 has identified A1,2,4,5,7,8, 11, 12 and 17. P.W.3 has identified A.1 3,4,5,6,7,8,10, 11, 12 and 24. P. W.4 has identified A1 to 5, 7 to 12, 18, 19 and 20 and P.W.5 has identified A4, 8, 11 and 13. P.W.2 has stated in cross examination that he saw A.17 at the station in the night and that he did not recognize him at the scene at Kudroli but in re-examination he has stated that he had seen A.17 near Kandathpalli. P.W.1 has stated that he had known before the ----- occurrence all the accused pointed out by him as having actually taken part in the fight. There is no reason whatever to disbelieve him.

11. As stated already, A14 to 23 were arrested by the District Superintendent of Police on his way in the bus and were released on bail by P.W.5 at the Police sation. The District Police Superintendent has stated that a majority of the arrests were made before reaching somewhere about Kandathpalli i.e., before reaching the place where the clash took place. It has been argued on behalf

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of the defence as to how A.15, 17, 18, 19 and 20 who have been spoken to by P.Ws. 1.2 and 4 as having been seen by them at the place of clash, could have been at the same time at the places where they were arrested which, accordingly to the District Superintendent of Police were on his way to the --- place of clash. It is argued that they could not have been in both the places at the same time i.e., the place of arrest and the place of clash and that the prosecution evidence is thus discrepant and unreliable. The evidence is that the Dt. Superintendent of Police arrived on the scene about half or three quarters of an hour after the firing (and the clash) and that when he came there the moplah crowd had been pushed back southwards and the fisherman crowd northwards beyond the Kudroli bridge and that the two crowds were at a distance of about 100 yards apart from each other. It has been replied to by the Prosecuting Inspector that in the light of this evidence it can be seen that after the clash there was ---- sufficient time before the arrival of the District Police Superintendent for the accused to have gone to the places of arrest especially after they were pushed back. Further, the District Superintendent of Police has not stated that all the arrests were made before reaching Kandathpalli and the Sub -- Magistrate's evidence shows that near the Pusalar Mosque some moplahs rushed from a house armed with swords and knives and were found following them and that this was noticed by him in time and the men were disarmed and some were arrested. So the contention of the defence that the prosecution version is that A15, 17, 18, 19 and 20 were both at the place of the -- clash and at the place of arrest <u>at the same time</u>, is not borne out by the evidence.

12. Even if it be admitted that the above mentioned accused (i.e., A.15, 17, 18, 19 and 20) were not at the scene of clash, it is clear from the evidence of the District ~~Police~~ Superintendent of Police that he arrested these as well as A.14, 16, 21 22, and 23 because they were members of an unlawful assembly and would not disperse even when asked to do so by the Sub Magistrate. He has stated that he should not have arrested

them if they had not been doing unlawful acts e.g., they did not disperse when they were ordered to disperse, they were - defiant, and were found going armed. The Prosecuting ----- Inspector has argued that the whole crowd of mpplahs - not only those who were present at the clash and had taken part in the actual beating but also all those who formed part of the entire group of defiant moplahs extending to the Golikatta bazaar - should be cosidered as the unlawful assembly and in this view which I accept, I consider that these accused even if they were not present at the clash were members of the unlawful assembly. The same remarks apply to the other arrested persons, viz., A.14, 16, 21, 22 and 23 none of whom are spoken to by any of the P.Ws. as having been prsent at the - clash.

13. Lastly, it has been argued that as P.W.1 had fired a revolver shot and a moplah was dead, he had to justify his position and the result was the theory of clash, and that in this view the Police witnesses who have spoken about the clash should be cosidered as interested witnesses. There is absolutely nothing in the evidence to show that P.W.1 had any account to render departmentally about this shooting and the contention does not hold good.

14. In the above circumstances I hold that the ---- prosecution has brought home the charge of rioting against all the accused. That A.14 to 23 were arrested and released on bail is a circumstance which clearly proves that they were members of the unlawful assembly. As regards A1 to A13 and 24 all of them have been identified by P.W.1who had known them before and their names are in the first report. There is also sufficient corroboration by the other Police officers (P.Ws. 2, 3, 4 and 5). I therefore find all the accused guilty of the offence they are charged with, and in covicting them of the same, I sentence all of them except A.22, A23 and A.24 to undergo rigorous imprisonment for three months each.

In the interests of the peace of the Town, I think it ------- necessary that the provisions of Sec: 106 Cr.P.C. should be applied to the case. I therefore order each of the accused (Except 22, 23,&24) to execute a bond for Rs. Fifty with one surety each for a like amount each for keeping the peace during a period of one year from this date.

15. A.2, A.22, 23, and 24 gave out their age as 20 18, 19 and 18 years respectively. The Medical Officer(C.W.1) who has examined them for their age says that A.2 will be about 21 years and below 22, and A.22 23 about 18 years each and A.24 between 18 and 19 years. This A.2 is not an adolescent offender but A.22. 23 and 24 are. Regard being had to their (A.22,23 and 24's) age and antecedents and the circumstnaces in which the offence was committed, it is, in my opinion, expedient that they should be released on probation of good conduct and so instead of sentencing them to any punishment, I direct under Section 562 (i) Cr.P.C that they be released on their entering into a bond in a sum of Rs. Fifty each with one surety each for a like amount each to appear and receive sentence when called upon during a period of one year from this date and in the meantime to keep the peace and be of good behaviour.

16. The arms seized will be cofiscated to Government.

17. I cannot close this judgment without leaving on record a word of appreciation at the able and fair manner in which the Prosecution Inspector of Police has handled this and the connected cases and conducted the prosecution.

Pronounced in open court.

P u t t u r
9---11---29

(sd) - J. Balaji Rao.
Sub Divisional I Class Magistrate.

N.B:- The prisoners are committed to the Sub Jail.Mangalore

A p p e n d i x

Witnesses examined for Prosecution

1. Mr. M.S.SChamnad. Circle Inspector of Pol
2. Sub Inspector Furtado.
3. B. Ramakrishna. Ag. Sub In, Ptr
4. Misquith. Head Constable
5. V.C.Kumarner. Head Constable

For Defence:-

1. Abdul Haji Moilar
2. Akbar Ali Sait.
3. Ramappa Sheregara
4. Narayan.
5. Moidin Haji.

6. Mr. K. Krishnaya. Sub magistrate

7. Purusha.

8. Mr. Joseph Huggins. Reserve Sergeant

9. Dr. Jacob.

10. Dr. Shanker Rao.

11. M.R.Ry. N. Ramanuja Ayyangar. Asst Supt of Police

12. Thimmappa.

13. Somayya.

For Court 1 Dr P. Gopalakrishnaya.

6. Meer Mahammad.

7. M. Abdul Latief.

8. B.S. Abdurahiman.

9. P,J. Sequeira.

10. Mr. Hussienabba.

11. Sheik Fareed, Saheb

12. Chayabba.

13, Hussanabba.

Exhibits filed for prosecution:-

A. 7--5--29	Complaint of P.W.1 in the First Information report.		
B. 6--5--29	Bail bond executed by Seedi Mukri Beary.		
B1.6--5--29	-do--	-do-	Ahmad.
B2.6--5--29	-dO-	-do-	Abdul Rahiman.
B3.6--5--29	-do-	-do-	Iddinabba Beary.
B4.6--5--29	-do-	-do-	Hosainabba.
B5.6--5--29	-do-	-do-	Hammabba.
B6.6--5--29	-do-	-do-	Chabu Beary.
B7.6--5--29	-do-	-do-	Syed Abdulrahiman.
B8.6--5--29	-do-	-do-	Abdul Khadre.
B9.6--5--29	-do-	-do-	Ahmad
C. 7--5--29	Complaint of Purusha -recorded by the Police.		
C1.18-5--29	Dying declaration of Purusha.		
D. 7--5--29	Report of P.W.8 regarding the offence.		
E. 7--5--29	Wound certificate granted to Purusha.		
F. 8--5--29	-do-	-do-	Soma.
G. 8--5--29	-do-	-do-	Thimmappa.
H. 8--5--29	-do-	-do-	Podia.
J. 8--5--29	-do-	-do-	Guruva.
K. 8--5--29	-do-	-do-	Babbu.
L. 8--5--29	-do-	-do-	Thowda.
M. 8--5--29	-do-	-do-	Kudroli Baira.
N. 8--5--29	-do-	-do-	Ammanna.
P. 8--5--29	-do-	-do-	Thyampa
Q. 8--5--29	-dO-	-do	Narayan.

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R. 8--5--29 Wound certificate granted to ~~Perrr~~ Thukra.

S. 8--5--29 -do- -do- Damu.

T. 10--5--29 -do- -do- Bolur Ananda.

U. 7--5--29 -do- -do- Shekabba.

W. 8--5--29 -do- -do- Mr. Furtado.

Exhibits filed for defence:

I 6--5--29 Signature of D.W.3 in the temporary injunction order in R.I. A 346-29 on the file of the District Munsif Mangalore.

II, 6--5--29 Bond under section 86 Cr.P.C. executed in CmC. 354 -of 1929 on the file of the I Class Bench court Mangalore.

III. 27--4--29 Witness summonse in C.C. 354/29 on the file of the I Class Bench Court Mangalore issued to Husane Beary.

IV. 27--4--29 Accused summonse in C.C. 354/29 on the file of the I Class Bench Court Mangalore issued to Addu Beary.

V. 7--5--29 Report of the Head Master Hindustani School to the Chairman, Mangalore Muncipality.

Material objects marked - Nil

Puttur
9--11--1929

(Sd) J. Balaji Rao.
Sub Divisional I Class Magistrate

(True Copy)

J Balaji Rao
10/11/29

Sub Divisional I Class Magistrate

10.11.29

Cr. J. Mis.-124.—26,347—27-7-27.

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In the Court of the Sub Dist I Class Magistrate — P. ~~Mgr~~ Division

JUDGMENT IN CALENDAR CASE No. 71 1929 ON THE FILE OF THE Sub Dist I Class MAGISTRATE OF Puttur Division.

Dated the 9th day of November 1929

Present: M. R. Ry J. Balaji Rao, Avl. B. A.,

Complainant ... ... King Emperor. (Charge Sheet-ni ~~29~~ No 58. A/29 of Mangalore Town Station.)

Accused ... ... (1) Purusha (2) Somayya (3) Allal Angara (4) Thimmappa (5) Anantha (6) Guruva (7) Babbu (8) Thowda (9) Baira Poojary (10) Ammanna (11) Thyampu (12) Narayana (13) Thukra (14) Dambar (15) Koraga Markela (16) Pili Pakura (17) Subba (18) Pakena Gurukara (19) Thayaisale Pakura (20) Bolaar Babu (21) Kudrali Chowma.

Offence ... ... Rioting armed with deadly weapons; Sec: 147 & 149 I.P.C.

Finding ... ... Against A.1 to A.7, 9, 10, 13 & 15 to 20 guilty.

Against A.8, 11, 12, 14 & 21 Not guilty.

Sentence ... ... A.8.11.12.14 & 21. acquitted under Sec: 258(1) Cr. P.C.

A.2.3.4.5.6.7.9.10.13.15.16.17.18.19 & 20 To undergo R.I. for three months each and to execute a bond for Rs 50/- with one surety each for a like amount for keeping the peace for a period of one year from this date under Sec: 106(1) Cr. P.C.

A.1. Released on probation of good conduct on entering into a bond ni a Sum of Rs 50/- with one surety for a like amount to appear and receive Sentence when called upon during a period of one year from this date and in the meantime to keep the peace and be of good behaviour. Under Sec 562(1) Cr. P.C

Serial number.	Description of the Accused						Date of						Explanation of delay.
	Name	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Release on bail.	Commencement of trial.	Close of trial.	
1	2						3						4
1.	Purusha	Poovappa	Mogavir	Fishing ~~Mogavir~~	Mangalore ~~Fishing~~	16							
2	Amayya	Attira Marakala	do	Fishing	Mangalore	35							
3	Ullal Angara	Ummala	do	do	do	26							
4	Thimmappu	Attira	do	do	do	35							
5	Annittra	Lakkanna	do	do	do	35							
6	Guruva	Luigalgurukara	do	do	do	35							
7	Babbu	Koraga Marakala	do	do	do	30							
8	Thowda	Babbu Marakala	do	do	do	23							
9	Bara Boojary	Dogra	do	do	do	30							
10	Ammanna	Mudara	do	do	do	25							
11	Thyampu	Koraga	do	do	do	24							
12	Narayana	Basa	do	do	do	19							
13	Thukra	Guruva	do	do	do	45							

Serial number.	Description of the Accused						Date of						Explanation of delay.
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Release on bail.	Commencement of trial.	Close of trial.	
1	2						3						4
14	Dandear	Mallu	Mogavir	fishing	Mangalore	45	6.5.29 at Kudroli ai Mangalore	charge sheet received on 2.7.29 by transfer	1.8.29	do	do	1.11.29	Judgment pronounced on 9.11.29 Proceedings sent to the Supdt of Police.
15	Koraga Marakala	Uggamma	do	do	do	35							
16	Pili Pakeera	Kakku Marakala	do	do	do	40							
17	Subba	Hoovaya	do	do	do	30							
18	Pakeera Guru Kara	Hanimantha	do	do	do	45							Bond under Sec. 562(1) Cr.C. + 106(1) Cr.C. executed.
19	Thanjansali Pakeera	Koraga	do	do	do	30							
20	Boloor Babu	Krishna	do	do	do	25							
21	Kudroli Choma	Pakeera Guru Kara	do	do	do	32			Sd/ J. Balaji Asst Dist I Class Magr.				

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C.C.No.71 of 1929.

J u d g m e n t.

This is a case of rioting against twenty one members of the Fishermen community in connection with the Hindu-Muslim trouble in Mangalore. The case against the Mussalmans is dealt with in C.C.No.72 of 1929. These cases have caused considerable sensation in Mangalore on account of the fact that this tension of feeling between the Hindus and the Muhammadans did not exist before. The trouble began about the end of the last year when, on account of the outbreak of cholera in Mangalore Town, several sects of the Hindu community started Bhajans to propitiate the Goddess. The Muhammadans objected to the taking of the Bhajana party with music in front of the Mosques. There was a fracas in December 1928 in front of the Sha Amir Mosque when a Bhajana Party of the Harishets passed that mosque. An order under section 144 Cr.P.C prohibiting members of the Hindu community from playing any sort of music in front of Mosques was passed by the Stationary Sub Magistrate, Mangalore in the same month. Feelings between the two communities have since then been strained. On occassions of the Marigudi festivals in Bolur and Bolar there were petitions from the Muhammadans requesting to restrain the Hindus from passing in procession with music in front of Mosques.

2. On the 4th of May 1929 the dead body of a fisher-woman was taken in procession with Bhajana and music from the Hoige Bazaar and while it was on its way to the Bolur cremation ground, there was a fight between the Moplahs and the Fishermen near the Pusilar Mosque in Kudroli and near the Nadupalli. This forms the Subject matter of C.C.73 of 1929 just disposed of. On this account, the feelings between the Fishermen and the Moplahs had become more strained.

3. On the 6th of May 1929 at sometime before noon the Sub Inspector, Mr. Furtado (P.W.2) gave information to the District Superintendent of Police (P.W.16) that the Fishermen were having a meeting on the morning of that day to consider what action they should take in connection with the occurrence

of the 4th. The District Superintendent of Police sent a memo to the Circle Inspector, Mangalore (P.W.1) to ascertain what it was all about and to keep him informed promptly. P.W.1 deputed the I.B.Head Constable to go and watch the meeting. At about 2 P.M. some Moplahs rushed to the Town Police Station and reported to P.W.1 that Fishermen were marching armed with cudgels and other weapons via Kudroli to Golikatta Bazaar. P.W.1 immediately sent intimation to the District Superintendent of Police and the Reserve Inspector and started with P.W.2 both of them taking their revolvers with them, after instructing Acting Sub Inspector, Mr. Ramakrishna (P.W.3), Head Constable, Misquith (P.W.4) and some more men to go to the Taluk Station, bring carbines from there and follow them to the spot. P.Ws.1 and 2 alighted from the jatka near Kandathapalli. They saw a crowd of Moplahs proceeding towards Kudroli. They proceeded onwards towards Kudroli hastening through the crowd and saw a large body of Fishermen about a thousand or two strong coming armed with knives, cudgels, etc. Just when P.Ws.1 and 2 reached the junction of Basavangudi Road with the Kudroli Road, there was a clash between the Fishermen and the Moplahs and they began to beat one another. P.Ws. 1 and 2 tried to stop the fight and separate them. The Fishermen pushed further Southwards and the Moplahs were attacking them. Still the witnesses attempted to stop the Fishermen proceeding forward and separate the two crowds, but in vain. The situation became very serious and there was danger to life and property. Stones began to be hurled up from the rear of the crowd. P.W.1 then fired a shot with his revolver in the crowd and with further attempts they were able to stop the progress of the crowd. By that time P.Ws 3 and 4 had arrived with reinforcements. P.W.1 kept them to check the progress of the Fishermen crowd and himself with one or two constables pushed the Moplah crowd back to the Golikatta Bazaar. Then the District Superintendent of Police came there in a motor bus with armed Reserve

accompanied by the Stationary Sub Magistrate(P.W14). The District Superintendent of Police took into the bus P.W.1 who was at the Northern end of the Moplah crowd and proceeded into the Fishermen crowd. The Fishermen were ordered to keep down their arms . They showed resistance. The Sub Magistrate declared the crowd to be an unlawful assembly . Under the Sub Magistrate's orders and in his presence, the District Superintendent of Police got the crowd dispersed by charging them with the butt end of their carbines. Under the District Superintendent of Police's orders P.W.15 a Reserve Sergeant rounded up the Fishermen and took down their names. He similarly rounded up the Moplahs and noted down their names. P.W.1, the District Superintendent of Police and the Sub Magistrate went as far as Bokkapatna clearing the road and returned. From among the persons rounded up by P.W.15, P.W.1 took down the names of the Fishermen whom he had observed taking active part in the riot. He gave a report of the occurrence at the Police Station and it is Ex: A. The weapons seized from the Fishermen underthe orders of the District Superintendent of Police have been kept in his (District Superintendent of Police's) custody. They were produced before the Court and seen by me. The Mudabidri Circle Inspector of Police (D.W.28) investigated the case and has laid a charge sheet against the 21 accused before the Court under section 148 I.P.C.

4. This is the case for prosecution. It has been testified to by seventeen witnesses examined on its behalf. P.Ws.1,2,3 and 4 who are Police Officers ~~who~~ were present at the riot and witnessed the occurrence. P.W.14 is the Stationary Sub Magistrate, Mangalore and P.W.16 is the District Superintendent of Police. P.W.15 is the Reserve Sergeant who rounded up the Fishermen as also the Moplahs. His report containing the names of the persons so rounded up by him is filed as Ex: T. P.W.17 is a Head Constable who recorded a complaint (Ex: U) from A.1 in the Government

on 7.5.29. PWs 12 and 13 are Medical Officers attached to the Government Hospital, Mangalore, who examined the injured persons and granted wound certificates for them. P.W.12 examined A.1, 2 and 4. Exs: B,C and D are Medical Certificates granted by him for the injuries on their person. He also files as Ex: E the certificate granted by him for the injuries on P.W.11 P.W.13 examined A.6,7,8,9,10,11,12,13,14 and 15 and P.W.10 and proves the certificates Exs: F.G.H.J.K.L.M.N.P.Q. and S granted for them respectively. P.W.2 also received a hit with a stone and Ex: R evidences it. P.Ws.5 to 11 are Muhammadan witnesses who speak to their having seen a large body of fishermen going armed and some of the accused in it. P.Ws.10 and 11 are A.3 and A.4 in the connected case C.C.72 of 1929 and speak also to the injuries on their persons as having been caused by the fishermen.

5. A prima facie case having been made out against the accused, a charge under section 148 I.P.C. was framed against them. They pleaded not guilty and have examined twenty eight witnesses on their behalf. They did not choose to cross-examine the P.Ws. before charge was framed. The entire cross-examination was after the charge.

6. The evidence adduced on behalf of the accused falls under two heads (i) evidence of alibi and (ii) evidence showing Moplah aggression and wanton assaults by Moplahs

7. D.Ws 5 and 6 speak to the alibi of A.3, D.W.7,8 and 9 to that of A.15, D.W.10 to that of A.10, D.Ws. 22 and 23 to that of A.17, D.W.24 to that of A.18, D.Ws. 11 and 12 to that of A.18, D.W.13 to the alibi of A.20 and D.W.25 to that of A.21. This evidence loses much of its force from the fact that the concerned accused did not raise the plea of alibi when they were examined under section 342 Cr.P.C. or when they were called upon to enter upon their defence. As a matter of fact the evidence relating to the alibi of all except A.17 does not deserve much notice as it is not supported by any record and it is not difficult to secure mere oral evidence. As regards A.17 the evidence is that he executed a pro-note for Rs.50/-(Ex: I) in favour of

D.W.22 at Bada a village 25 miles from Mangalore on 6-5-29 (the day of the occurrence). D.W.23 the attesting witness says that the pronote was written in D.W.22's house at about 2.30 or 3 P.M. and that A.17 was then present, the time of the alleged offence being about 2.30 P.M. The amount of Rs.50/- with interest due was since repaid on 25-9-29 as Ex: I(a) shows. The document is an unregistered one and I do not attach much importance to the oral evidence of D.W.23 in view of the discrepancy between D.W.22 and D.W.23 regarding the description of the verandah of the house where the pro-note is said to have been executed, and of the fact that a number of motor buses pass between Udipi and Mangalore and Bada is on the way.

8. D.W.1 is the Revenue Officer of the Mangalore Municipality. He says that on 6-5-29 when he went to his office at about ~~10~~ 11.30 A.M. he saw D.W.2 being brought to his office having been, as he was told, assaulted by about 10 Moplahs, that he was hardly able to speak, that he asked him to remain in the office, and take rest and that on the Bunder side he saw a young fisherman (D.W.4) being assaulted by about 15 Moplahs. That would be at about 12 noon. He sent at about 1 P.M. a report to the Station House Officer, Town Police Station about this disturbance. D.Ws. 2 and 4 corroborate him and D.W.3 is another person assaulted along with D.W.4. A Police Constable asked the rower of a dredger, where he saw D.Ws. 3 and 4 to convey them to the Sandspit on the opposite side of the river, on the ground that the road was crowded with the Moplahs and that it was dangerous to allow them (D.Ws.3 and 4) to go to the Police Station to lay their complaint as they wanted to do. D.W.14 speaks to A.4 having been injured by Moplahs at about 10 A.M. opposite the Mission Church in Bokkapatna. D.W.15 is the Treasury Deputy Collector, Mangalore. He speaks to having seen about 25 Moplahs standing with firewood billets at the junction of the old Post Office Road leading to Bandar and the Azizuddin Road and says that a Christian woman who was taking mangoes towards the Bandar was warned by his Treasury Head

Constable, a Catholic not to proceed lest she should suffer the fate of a sister seller who had been deprived of her mangoes, and asked to go back. He adds that 3 motor cars which were going apparently to Sandar slowed down as they approached the Moplahs and that two cars went past the Moplahs and one returned. He thought it was his duty to bring the situation at the place to the notice of the District Superintendent of Police and accordingly sent a chit to the Manager of the District Police Office. D.Ws. 16 and 17 are two old fishermen who say that while they were on their way to the Bazaar from Bolur to lay information before the Police about 4 fishermen having been assaulted by the Moplahs about which they had heard on the way, they were hit with stones by Moplahs and that D.W.16 fell down unconcious. D.Ws. 18 and 19 speak to having seen A.2,5,6,7,8 and 11 with injuries ~~xxxx~~ said to have been caused by Moplahs, at about 10 A.M. on 6-5-29 and D.Ws. 20 and 21 speak similarly to having seen A.9,10,12,13 and 14 with injuries on their persons at about the same time. D.W.27 is the Stationary Sub Magistrate (P.W.14). He files the dying declaration recorded from Purusha (A.1) in the Government Hospital as Ex:II D.W.28 is the Circle Inspector of Mudabidri who investigated the case. He was asked about the information elicited by him at his investigation as regards the names of the accused alleged to have taken part in the riot. There were two security cases against the leaders among the Moplahs and the Fishermen under section 107 C.P.C This witness files a copy of the order under section 107 and 112 C.P.C. issued by the Sub Divisional Magistrate, Mangalore against the Fishermen Leaders as Ex: IV and a copy of his own report on which action was taken under section 107 as Ex: V.

9. D.W.26 is a teacher in the Fisheries School in the Sandspit and himself fisherman. He gives the defence version of the occurrence. He says that at about 12 noon on 6-5-29 D.Ws. 3 and 4 told him at the Sandspit that they were

beaten by Moplahs at the Bunder, and that Fishermen were being beaten by Moplahs wherever they were found; that some members of his community who heard the story of D.Ws.3 and 4 asked him to convey the information to a meeting of their community which was being held at Tannirbavi, that he accordingly reached Tannirbavi at about 1.30 P.M. and gave information to the 150 persons assembled at the meeting, who, on hearing the informatic decided that they should in a body go to the Police Station and lay the information there, that accordingly all of them crossed the Bolur Ferry, proceeded along the Sultan Battery Road and came as far as the Kudroli bridge near the Tile Factory where they saw the Moplahs coming from the opposite direction, that when P.Ws. 1 and 2 told them not to proceed further, they stopped there, and seeing the Moplahs still proceeding they complained to P.Ws.1 and 2 and askedthem why they would not stop the Moplahs from proceeding forward. He adds that as they had information that the Moplahs were beating Fishermen wherever they saw them, they carried sticks as weapons of defence for their self-protection.

10. The case for the accused has been argued from three stand-points, viz: (i) Common object of the assembly (ii) Clash or fight and (iii) Identification.

11. Common object of the assembly:- Ex: V which started the security proceedings says that the feelings between the two communities was so much strained that members of each community were being assaulted by the members of the other, wherever they happened to meet and that these stray attacks might at any time attract greater growds and that there was every likelihood of an imminent breach of the peace. It has been argued by the Advocate for the defence that the prosecution has not been able to prove even a single instance of such stray attack by the Fishermen, that on the other hand overwhelming defence evidence has been let in to show that the Moplahs were in the aggressive and were wantonly attacking Fishermen wherever they happened to meet them, and that there have been no excesses or acts of incendiarism laid at the doors of the Fishermen. It is said

that as stated by D.W.26 the Fishermen crowd was most orderly and was proceeding with the definite object of laying information before the Police. No doubt the evidence of P.W.6 shows that the thatties of his hotel were cut by the Fishermen and the glasses inside the hotel were also broken by them; but this incident comes to notice rather too late in the day, for, P.W.6 has himself admitted in cross-examination that he has not been questioned about it by any Police Officers nor did he show the broken glasses and the thatties to any one of them. It is admitted by the defence that the Fishermen crowd carried arms with them but it is stated that that was not in any spirit of aggression but as a self defence and self protection. It is asked as to why they should not take arms for self defence when, even under Police protection on 4-5-29 they could not escape assault and injuries at the hands of the Moplahs. It is also argued that if the Fishermen were really on the aggressive, Jodupalli and Nadupalli Mosques would have been destroyed. It is also stated that the route taken by the Fishermen was the direct route to the Police Station and that there was nothing wrong in their marching in an orderly manner to give information to the Police. It is not the case for the prosecution that the Moplahs were not aggressive, for, as a matter of fact a case of rioting has been launched against them also. In the first place it was not necessary that so many persons as about a thousand or two should have proceeded armed with deadly weapons in the manner they are alleged to have done if only for the purpose of laying information, and secondly the circumstances as elicited in the evidence adduced for the prosecution clearly go to show that the object of the Fishermen crowd was mainly to attack the Moplahs in the Golikatta Bazaar which is practically their home. So this contention of the defence that the common object of the assembly has not been proved falls to the ground.

(2) Clash:-

12. There are certain discrepancies in the prosecution evidence from which it has been argued that the clash or the fight between the Fishermen and Moplahs is false. P.Ws.3

S.I

and 4 started from the Police Station together. While P.W.3 says that he did not see the firing by the Circle Inspector of the fight between the two crowds, P.W.4 says that he saw both the firing and the fight, It is probable that one of them i.e P.W.4 went in advance of the other though they started together from the Station and saw both the firing and the fight while the other, P.W.3 tarried behind and was not able to see it. Secondly, while P.Ws. 2 and 4 say that when the District Superintendent of Police and the Sub Magistrate arrived on the scene, the Fishermen crowd was at the Chuckler's Street junction which is about 100 yards to the South of the Kudroli bridge, the evidence of the District Superintendent of Police and the Sub Magistrate shows that the Fishermen were on the other side i.e. on the Northern side of the bridge and according to the District Superintendent of Police 150 or 200 yards away from the bridge. P.W.3 first stated that when the District Superintendent of Police(~~arrived~~) and Sub Magistrate arrived, the Fishermen crowd was at the Chuckler's Street junction but later on corrected himself by saying that it was at the Commonwealth Tile Factory gate on the other side of the bridge that the Fishermen crowd was, when the District Superintendent of Police and the Sub Magistrate arrived. Evidently there was some confusion in the mind of P.Ws. 2 and 4 when they gave evidence on this point. I do not, however, think that it goes any way to disprove the story of clash or fight spoken to by P.Ws. 1 and 2.

(3) Identification:-

13. It is unfortunate that in this case there was no identification parade held in the course of the investigation, and that the identification was held for the first time only in this Court. D.W.28 has stated that he had no opportunity to show any of the accused to any of the witnesses before they appeared inthis Court because they were evading arrest. On the side of the accused it has been argued that if they had appeared before the Police that would have given the Police only a scope to strengthen their own case. As suggested by

the Advocate for the defence the twenty one accused in the case were mixed along with a hundred others and P.Ws. were asked to pick out the persons whom they saw at the riot. P.W.1 pointed out A.1,4,5,6,13,15,16,19 and 20 besides 33 others as having taken active part in the riot. P.W.2 has identified A.3,13, and 17 besides 10 others. P.W.3 has identified A.2 and A.16 besides 8 others. P.W.4 has identified A.3,7,9,16 and 20 besides 15 pthers. P.W.5 has identified 3 persons (A.17,18 and 21), P.W.6 none, P.W.7, 2 persons (A.9 and 17), P.W.8 none, P.W.9 5 persons (A.8,9,14,17 and 21), P.W.10, 10 persons (A.3, 4,5,7,8,14,15,17,18,and 20) and P.W.11, 2 persons (A.17 and 18). I cannot attach much importance to the identification made by P.Ws.5,7,9,10 and 11, because, in the first place, they say that the persons whom they pointed out were only going in the crowd proceeding towards the Golikatta Bazaar and, secondly, some of them have pointed out more persons among the accused at the time of the cross-examination. P.Ws.10 and 11 are as stated already A.3 and A.4 in the connected case (C.C.72 of 1929) and the evidence of these as well as P.Ws. 5 and 7 and 9 has to be considered as interested.

14. Ex: A4 the first report in the case sent by P.W.1 makes mention of the names of all the accused except A.12,13 and 14, and P.W.1 says that he noted down the names of the Fishermen whom he had seen taking active part in the riot from among the one hundred persons rounded up by Mr. Huggins (P.W.15) who were there. P.W.15 has stated that every man was let off immediately his name was recorded and that by the time he recorded the name of the last man the others whom he let go were not there. He adds that at the time he was recording the names till he finished it P.W.1 was not there. From his evidence, it has been argued that P.W.1's evidence that P.W.1 took down the names from among the persons rounded up is false. P.W.15 has stated that he got every man to him, took down his name and let him go. It appears probable that his evidence means that after he took down their names he did not really notice anything about their movements , and this does not disprove the evidence of P.W.1 that he took

down the names. P.W.1 has however, admitted in the cross-examination that he did not know any one of the accused before the fight i.e. occurrence, and that in noting down the names he had the help of Constables. None of the constables have been examined. In the first place, it is doubtful whether the persons who gave out the names gave out their real names and secondly there is no evidence that the persons who gave out the names recorded in the First Information report are the very persons who are now in the dock. So I do not think Ex: A has much evidentiary value. For the same reason, no importance can be attached to Ex: T, the report sent by Mr. Huggins.

15. I have however no reason to disbelieve the evidence of P.Ws.1,2,3 and 4 when they say that they saw at the riot the accused whom they pointed out and whose names have been given above. Five out of the nine persons identified by P.W.1 are injured persons as also one out of the three identified by P.W.2, one out of the two pointed out by P.W.3, and two out of the five pointed out by P.W.4. I do not believe the defence evidence adduced on behalf of the injured accused that they received injuries before 10 A.M. on the day of the offence i.e. 6-5-29. The evidence of the Medical Officers shows that the injured persons were sent by the Police. I cannot bring myself to believe that the Police would have sent them for examination for the injuries sustained by them long before the occurrence as defence wants us to believe.

16. A.8,11,12,14 and 21 have not been identified by any of the Police eyewitnesses to the occurrence. No doubt A.11, 12 and 14 are injured persons. I however give them the benifit of doubt. I accordingly acquit A.8,11,12,14 and 21 of the offence they have been charged with under section 258(i) Cr.P.C.

17. As in my opinion there is satisfactory evidence against the others i.e. A.1,2,3,4,5,6,7,9,10,13,15,16,17,18,19, and 20 that they were present at the riot and took part in it I find them guilty under section 148 I?P.C., convict them of the same and sentence them except A.1 to undergo rigorous

imprisonment for three months each. In the interests of the peace of the Town, I think it necessary that the provisions of section 106 (i) Cr.P.C. should be applied to the case. I therefore order each of the above accused viz: A.2,3,4,5,6, 7,9,10,13,15,16,17,18,19 and 20 to execute a bond for Rupees 50/- with one surety each for like amount each for keeping the peace during a period of one year from this date.

18. A.1 has given out his age as 15 years. The Medical Officer (C.W.1) who has examined him for age says that he will be 16 years old and below 17. I agree with him in his opinion. He is, therefore, an adolescent offender. Regard being had to his age and antecedents and the circumstances in which the offence was committed it is in my opinion, expedient that he should be released on probation of good conduct and so, instead of sentencing him to any punishment I direct under section 562(i) Cr.P.C. that he be released on his entering into a bond in a sum of Rupees fifty with one surety for like amount to appear and receive sentence when called upon during a period of one year from this date and in the meantime to keep the peace and be of good behaviour.

19. The arms seized will be confiscated to Government.

Pronounced in open Court.

Puttur
9-11-29

(Sd) J. Balaji Rao,
Sub Divisional I Class Magistrate.

Note. The prisoners are committed to the Sub Jail, Mangalore.

A P P E N D I X.

Witnesses examined for Prosecution:-

1. Mr. M. S.Chamnad. Circle Inspector Of Police.
2. Mr. Furtado. Sub Inspector of Police.
3. Mr. H. Ramakrishna. Acting Sub Inspector of Police.
4. Misquith. Head Constable.
5. Muhammad Fakir Buksh.
6. Muhammad Hanif Saheb.
7. Hassan Baba.
8. Abdul Quadir.
9. Sheik Alli Saheb.
10. Sheik Abba.
11. Podia Bari

~~(11. Podia Beary.)~~

12. Mr. M. Jacob.

13. Docter Shankar Rao.

14. Mr. K.Krishnayya Sub-Magistrate.

15. Mr Joseph Huggins. Reserve Sergeant.

16. Mr. N. Ramanuja Ayyangar. D.S.P

17. V.C.Kumaran. H.C.

For Defence:-

1. Mr. M. Ramappa. Revenue Officer, Municipality.

2. Gopala.

3. Thimmappa.

4. Somayya.

5. Narasimha Kini.

6. K. Cheriya Kunhi.

7. Duje Souza.

8. Venkappa.

9. Bogra Gurikar.

10. Narasimha Naika.

11. Dugganna Maistry.

12. Thomas D8Souza.

13. Manjappa Sheregara.

14. Subbaya Shetty.

15. Mr. H. Shankar Rao. Treasury Deputy Collector.

16. Guruva.

17. Mundappa.

18. Aithappa Pujary.

19. Chennappa.

20. Thimothi Bangera.

21. Panduranga Rao.

22. Thimmappa.

23. Anthayya Hegde.

24. Pakira.

25. Mudara Pujary.

26. Krishnappa.

27. Mr. K. Krishnayya. Sub Magistrate.

28. Mr. G. G. Sunder Rao. Inspector of Police. Mudabidri.

For Court -

1. Doctor ... Gopalakrishnaya.

Exhibits filed for Prosecution:-

A. 7-5-29. Complaint of P.W.1 in the F.I. report.

B. do Wound Certificate granted to Purusha.

C. 8-5-29. do to Soma.

D. do do to Thimmapp

E. do do to Podia.

F. 10-5-29. do to Bolur Guruva.

G. do do to Bolur Babbu.

H. do do to Thouda.

J. do do to Kudroli Baira.

K. do do to Bokkapatna Ammanna.

L. do do to Bolur Thyampa.

M. do do to Kudroli Narayana.

N. do do to Bokkapatna Thukra.

P. do do (to Bokkapatna) to Bokkapatna Damodh.

Q. do do to Bolur Anantha.

R. 8-5-29. do to Mr. Furtado.

S. 7-5-29. do to Shekabba.

T. do Report of P.W.15.

U. do Complaint of Purusha recorded by the Police.

For defence:-

I. 6-5-29. Demand promisary note executed by Subba Melantha in favour of Thimmappa Pujary.

II. 18-5-29 Requisition of the Doctor to the Sub Magistrate to record the dying declaration of Purusha.

III. 18-5-29. Dying declaration of Purusha.

IV. 8-5-29. Notice issued by the Sub Divisional Magistrate, Mangalore on the Fishermen Leaders in Misc.C.8/29.

8.5.29 Copy of the report of the investigating Officer.

Material Objects Marked:-

Nil.

PUTTUR.
9-11-29.

(Sd, J. Balaji Rao,
Sub Divisional I Class Magistrate.

/True Copy/

J Balaji Rao

10.11.29

Sub Divisional I Class Magistrate

b/14/5

120

Public Department.

Hindu-Muslim disturbances - Mangalore

Mh 4-5 CF

The D.M's report came yesterday. It in itself is rather jejune, but the D.S.P's account and the other enclosures give a full record of what happened. I have thought it better to compose a summary for despatch to the Govt. of India instead of merely throwing at them as enclosures the various reports we have received.

Mh 6-30 "

Yes
all
13.5.29

hmj 13.5.29

CF

all
13.5.29

Mh.
14/5/29

C2

C4 after 14-5-29.

C3. para 7. As regards the Inspectors are unlikely to get further information. If so I may say in the information at present before them H Minister Govt. are of the opinion that

1 C, ad finden.

HR.

ZEM
16/5/29

draft may be so amended.

G.

17.5.29

Issue as amended

rgd
17.5.29

Mh 32-38 CF (Letter no. 7/0-2 of 17.5.1929)

121

11-39-41 CF. Letter from the D.M. of S. Kanara Rf no. C1-4301-29 dt 28.5.1929

13/6/6

A further report received from the D.M. of South Kanara at pp 39-41 CF. is submitted for perusal

2. We have not so far received any report of the occurrence from the D.G. of Police. It is not known what orders were passed by him on the conduct of the Police. It is necessary, I hardly think so, a report should be called for. the draft below is for approval

ARN 2/6/29 CS. MW 2.6.29

No further action on report to the G.O. seems necessary. If however it is considered desirable for Govt. to express their views on the conduct of the local magisterial & police authorities a report from the D.G. of Police & copies of proceedings & orders in any cases arising out of the incident will be obtained.

MW 3.6.29

I think it is better to write to the D.G. of Police & copies of proceedings & orders in any cases arising out of the incident will be obtained. MW 6.6.29

CHIEF SECRETARY 1 JUN 1929 CHIEF SECRETARIAT

C2 MW 5/6/29

C4 C3 C1 HC

MW 6.6.29

I don't see any need for further report. Now I. We might get copies of the judgment, if any, in due course even if they are pending. 8/6/29

MW 12/6 14.VI.29

CHIEF SECRETARY 14 JUN 1929 GOVT. OF MADRAS

120 35

Draft on d & put up for
transfer receipt to C2, C4

hmj
14.6.29

12
17/6

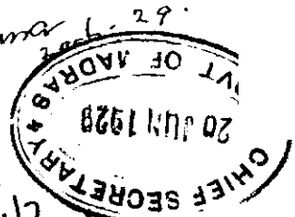
CR

Draft submitted.

KRN
6/6/29

ave
17/6/29

Mh.
19/6/29 C2
C4



Memo to the D.M of S. Kanara, No. 7/0 3 [illegible]

the D.M of S. Kanara [illegible]

Submitted for perusal. The
D.M may be reminded on 20.8.29
with reference to para 2 of his letter p.43 cf

KM
13.7.29
RK
13.7.29

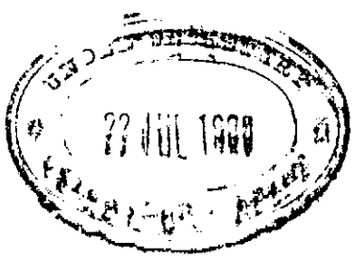
11/7/29

KG
16.7.29

C1
C3

11.3
1.7

Mh.
16/7/29



Seen by AMCs
& initialled in
a L.C. & file links

Draft reminder is submitted.

KM
19.8.29

JMR
19.8.29

7/0-4
21.8.29
RD 20-8-29

p. 62 cf [Memo to the D.M of S. Kanara, No. 7/0-4 Dy 21.8.29]

p. 63 cf [C.N. 3441]. From the [illegible] of [illegible] R.Dis 5623-29 Dy 28.8.29

[illegible] Submitted for perusal. (Nest R.Dis 1-10-29) [illegible]

31-8-29

[illegible]

2-9-29

[illegible]

See HMS' remarks at the bottom of p 2 ante

[illegible] drafts reminder summons

4/10/29

[illegible]

4/10/29

[illegible]

p. 64 cf [Memo to the D.M of S. Kanara, 3411-B 7-10-29]

pp 66 to 119 cf [C.N. 4571]. From the [illegible] R.Dis 5633-29 Dy 14-11-29

[illegible]

This file relates to the riots that took place in Mangalore on 4.5.29 and 6.5.29 as a result of the strained feelings between the fishermen and the Moplahs. The incidents are fully reported in the D.S.P.s letter at pp 8-12 cf p. 2 on 6.5.29 the Circle Inspector, Mr. Shamnad had to fire a revolver shot on the rioters as a result of which one Moplah

was "Killed ... The Govt considered" it "desirable" to obtain the judgment and orders on the cases arising out of the riots in order to express their views, if necessary, on the conduct of the local magisterial and Police officers - see note on p. 2 ante. The following cases arose out of the riots

Mis Case No. 7/1929 on the file of the Sub-Divisional Magistrate, Mangalore; (see pp 44-51 C7) - 9 Moplahs were bound over to keep the peace for a period of one year under section 118 Cr. P. C.

Mis case No. 8/1929 on the file of the Sub-Divisional Magistrate, Mangalore (pp 52-60 C7). 5 fishermen were bound over to keep the peace for a period of one year under § 118 Cr. P.C

These two cases do not reveal any irregularity on the part of the Police or the magistracy.

C.C. No. 73/1929 on the file pp 67-82 C7
of the Sub-Divisional Magistrate, Puttur
This case relates to the riots of 4-5-29. 11 Moplahs were charged, all for offences under sections 148 I.P.C,

and some under sections 297, 323 and 324 I.P.C. also. The finding of the S.D.M will be found in paras 23 to 25 at pp 79-80 C7. Reference is invited to the observations in para 10 of the judgment. This does not reveal any complaint on the part of the police

M 83-101 CF

C.C (No. 72/1929) on the file of the Sub-Divisional Magistrate Puttur

This case relates to the incidents of 6.5.29. 24 accused were charged under section 148 I.P.C. All of them were found guilty. The sentences awarded are contained in para 14 (iii) of the judgment.

M 98-99 C7

M 95-96 do

Para 13 refers to a discrepancy in the Police evidence on the rioters

p. 98 Jud.

Para 13 refers to the finding by the Circle Inspector Mr. Shamnad. The Magistrate has not made any remarks on this incident. He uses the fact that the Inspector was not called upon departmentally to account for his action to refute the defence theory that the alleged clash between the fishermen and the Moplahs was only an exaggeration

M 102-119 C7

Vide C.C No. 271/1929 on the file of the Sub-Divisional Magistrate, Puttur.

This case also relates to the incidents of 6.5.29. 21 fishermen

* M 74-75 C7
† p. 77 J

were charged under section 148 I.P.C.
16 were found guilty. and 5 were
acquitted as they were not identified
by the Police eye-witnesses. The
sentences awarded to the persons
found guilty are contained in
paras 17 & 18 of the judgment. pp 115-117 C.J.
In para 12 the Magistrate pp 113-114 C.J.
refers to certain discrepancies in
the evidence given by Police
witnesses. In para 13 he deplores p 114 C.J.
the failure of the Police to
hold an ~~investigation~~ identification
parade of the accused in the
course of the investigation.
Owing to this circumstance he had
to give the benefit of doubt to see para 16, p 116 C.J.
some of the accused.

It is for orders whether
the conduct of the police should
be commented on. If so, this is
~~considered not necessary~~ further action has to be taken in Pub (Police,
~~the papers~~ may be recorded

There was a question in pp 1-2 of Lodged
the Legislature Council about the shooting, No. 2706 Pub dy
by the Police Inspector. It was 2.8.29 at (Z)
disallowed by the President as the pp 8-9 ibid.
cases arising out of the riots

C6/12

27

(2.) were sub-judice – see Letter No. 2706 Pur dated 2-8-29

ZM
30/11.29

JK
30.11.29

There is nothing in the proposed enquiry a modification of the Govt's original opinion as communicated in Govt. P 38 at (para.) of the letter)

p. 38 C7

C 30/11
CS

The Govt of Madras have not asked for any further report & it does not seem necessary to make one. The papers may be recorded.

CRETARY
19 DEC 1929
F SCOTT

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CHIEF SECRET.
19 DEC 1929
GOVT. OF MAD

G.O. No. 1291 dt 13-12-29

Abstract

Hindu-Muslim Tension – Mangalore – Moplahs and fishermen – Riots of May 1929 – Reports – ~~copies of postmortems~~ – Recorded.

Drafted by

Sectt. II-51—3,004—6-11-28.

1928

1929.

Chief Secretariat DEPARTMENT.

CUTTINGS FROM NEWSPAPERS.

1. *Name of Paper*— THE HINDU, WEDNESDAY. MAY 8, 1929

2. *Published at*—

3. *Dated*—

HINDU MOPLAH FIGHT IN MANGALORE

POLICE OPEN FIRE

(ASSOCIATED PRESS OF INDIA.)

BOMBAY, May 8.

A Mangalore message to the *Times of India* reports a pitched Hindu-Moplah fight last afternoon over an area of two miles near Nadupali Mosque. Police opened fire as a result of which one Moplah was killed. Eventually the crowd was charged with bayonets and dispersed with considerable difficulty. Stray assaults on innocent passers by are also reported. Several persons were also injured in the course of the rioting.

W.S. Submitted with ffr. Dd 11.5.29 Hy. 11.5.29

C.F.

C 8/11
R 8/11

PUBLIC (GENERAL) DEPARTMENT. 1929

Received 9 - JAN 1930 192. Registered 192

3-1-30.

Subject.

Hindu-Muslim disturbances - Mangalore - Copies of appeal judgment - Submitted.

p.42 of G.O. No. 1291 Pub/Gen dated 13-12-29 at (P) Government Memorandum No.7/0-3 Public dated 21.6.1 and my letter R.Dis.5633-29 dated 14.11.1929.

pp. 66 - 119 ibid

28 DEC 1929

ENCLOSURES.
No .....
.....
Spare copies.....

F.Dis. No. 5633-29.

Station Mangalore, Dated the 22nd December

Pub/Gen/ Dept
May be filed with G.O. No. 1291 — Pub/Gen/ dt 13.12.29 (P) F12

From (Name) G.W. Wells, Esquire, M.A., I.C.S.,
(Designation) District Magistrate of South Kana

2K 6-1-30. Please see letter at P. 17.

To The Chief Secretary to the Government of Madras,
Public (General) Department
Madras

Sir,

I enclose copies of the judgment in each of th 3 appeals filed against the convictions in C.C.71, 72 & 1929 on the file of the Sub Divisional Magistrate, Putt Division. H 102-119 of (P) H 67-81

M 2 C.C. 71/29
M 8-10 supra
14-20 supra

C 1 Wls 01/11/29

2. The convictions in C.C.71 and 73 were conf the Sessions Judge in appeal, though he modified th and extended the validity of the order under Sec.10 3 years. The conviction in C.C.72/29 was set Moplah appellants were acquitted, as the Judge h as the riot of the 6th May 1929 was concerned, th the aggressors and the Moplahs only acted on the d

H 83-101 of (P)

see para 8 & 9 of pp 12-13 supra

Your obedient servant,

For Dt. Magistrate.

In 130

In the Court of the Sessions Judge of South Kanara.

The ninth day of December 1929.

Present:- W. O. Newsam, Esquire, I.C.S.,

Sessions Judge.

Criminal Appeal No.30 of 1929.

From what Court the appeal is preferred.	Sub Divisional I Class Magistrate, Puttur Division.
Number of the case in that Court.	C.C.No.71 of 1929. — Mp 102-118
Number of the appeal.	C.A.No.30 of 1929.
Names and description of the appellants.	1. Purusha, son of Poovappa. 2. Somayya, son of Aitha Marakala. 3. Ullal Angara, son of Ummala. 4. Thimmappa, son of Aithu. 5. Anantha, son of Lakkanna. 6. Guruva, son of Linga Gurikara. 7. Babbu, son of Koraga Marakala. 8. Baira Pujari, son of Dogra. 9. Ammanna, son of Mudara. 10. Thukra, son of Guruva. 11. Koraga Marakala, son of Ugganna. 12. Pili Pakeera, son of Kakku Marakal 13. Subba, son of Huvayya. 14. Pakeera Gurikara, son of Hanumanth 15. Thyanjanasale Pakeera, son of Kora 16. Boloor Babu, son of Krishna. All residing in Mangalore Town.
The sentence and law under which it was imposed in the Lower Court.	1st Appellant. Released on probatic of good conduct, on entering into a bond in a sum of Rs.50/- with one surety for a like amount to appear a receive sentence when called upon during a period of one year from th date and in the meantime to keep th peace and be of good behaviour, und Section 562 (i) Cr. P. C. Appellants 2 to 16. To undergo rig rous imprisonment for three months each under Section 148 I.P.C. and t execute a bond for Rs.50/- with one surety each for a like amount each keeping the peace for a period of a year from this date under Section (i) Cr. P. C.
Whether confirmed, modified or reversed, and if modified the modification.	Order under Section 562 Cr.P.C. a the 1st Appellant is confirmed; sentence and order modified as re Appellants 2 to 16; Appellants 2 are sentenced each to pay a fine Rs.20/- under Section 148 I.P.C. three months' rigorous imprisonme default and the period for which should undertake to keep the peac extended to three years under Sec 106 C.P.C.

-x- 38 131

Date - of, or on which,						
Presentation.	Filing.	Notice issued by Court to appear.	Appellant ordered to appear.		Hearing.	Order.
11-11-'29.	11-11-29.	12-11-29.	23-11-29.	Adjourned to 6-12-29 on account of Sessions.	6-12-29.	9-12-29

This appeal coming on for hearing before me; upon perusing the petition of appeal and the record of the evidence and proceedings, and upon duly considering the same after hearing the arguments of Mr. N. N. Suvarna, Counsel for the Appellants and the Public Prosecutor contra, I do adjudge and pass the following

Judgment.

There was a riot on May 6th, 1929 between Moplahs and Hindu fishermen. The Police charged certain members of the crowd on either side under Section 148 I.P.C., and these two appeals are filed by Moplahs and fishermen respectively against their conviction. Though the appeals are two in number and are from separate judgments, the incident was one, and there are so many points common to both appeals that it seems to me best to write one prelude to both judgments.

2. First, however, I must refer to another appeal which was heard by me about the same time, because it relates to a closely connected affair. In C.A.37 and 38 of 1929 I have arrived at the following conclusions. On May 4th the fishermen organised a funeral procession with music and took it through the Moplah quarter, with the special object of proving to the Moplahs that they could not prevent music before mosques. The Moplahs attacked the procession. The Police arrived on the spot at this stage. The fishermen, however, were quickly reinforced in numbers, and the Moplahs

also began to assemble armed in their mosques. The handful of Police on the spot decided to escort the fishermen past the mosque as quickly as may be. This action by the Police was misinterpreted by the Moplahs as championship of the fishermen's side. Consequently the Moplahs again attacked the procession, and a serious riot was only prevented by the arrival of the District Superintendent of Police with the Reserve Police Hockey team, with whom he was playing when news of the riot reached him.

3. This was the incident of May 4th, and for their share in the incident, I have confirmed the conviction of the Moplahs for rioting.

4. At the present moment we are concerned with events of the 6th May. That morning the fishermen assembled together to concert measures against the Moplahs. That this was their object no sensible person can doubt for one moment. It is really puerile to suggest that the object of this assembl was only to collect money for litigation with the Moplahs. Subsequently events prove that litigation is not the weak spot of either party to this feud. As a matter of fact, the Police authorities were apprised of this meeting of fishermen, and a man was sent to find out and report what they were ---- planning to do. The Moplahs themselves were under no delusions as to the intention of this gathering of fishermen. Indeed it would have taken a very stupid Moplah indeed all his time to believe that their intentions were peaceful. The Moplahs sent word to the Police that the fishermen were coming to attack them and they asked for protection. A large body of heavily armed fishermen, estimated at over 1000. then marched upon the Moplah quarter. They say, or it is said for them, that they were going to represent certain grievances to the Police. This allegation is humourous - at least it strikes me as more funny than true. I believe that the common object of the fishermen was to trail their coats once more in the Moplah quarter this time after adequate prepara-

see p. 9 07 (P)

tion and with weapons at the ready. To put it bluntly, they went looking for a fight. Hearing that the fishermen were coming armed and marching against them. the Moplahs gathered in their street and each man seized the weapon nearest to his hand. They did not really go to meet the fishermen but seem to have awaited them at the top of the Moplah street. Inspector Schamnad, himself a Moplah, was the first Policeman on the spot. He pushed his way in a jutka through the stream of Moplahs going towards the top of the street, and was just in time to place himself between the two armed mobs. Sub Inspector Furtado was with him and they were both armed with revolvers. The two crowds began to throw stones at each other, and to engage in hand to hand struggle with sticks. The Policemen were hemmed in and surrounded, and of course their situation was extremely dangerous. At this point Inspector Schamnad fired his revolver into the struggling mass and he was after that able to separate the protagonists and to take up a position between them. Sub Inspector Furtado began to push back the fishermen crowd, and he began to push the Moplahs back. At this juncture the District Superintendent of Police arrived with the Sub Magistrate and a body of Police, disarmed both crowds, rounded up some of them and dispersed the rest.

5. Now in both these appeals, the learned Advocates have argued that there was never any clash between the two crowds. Really this is too absurd. Not only is it obvious that Inspector Schamnad would not have fired his revolver unless there was a melee - (he shot a Moplah, as a matter of fact), but the would certificates show that the two mobs did come to grips, and even when the District Superintendent of Police came both mobs were excited, and within striking distance of each other. In these circumstances, it seems to be only another humourous suggestion that there was absolutely no conflict between the two crowds. Of course, it is undisputed that Inspector Schamnad's prompt and courageous beha-

viour in firing his revolver before it was too late, prevented a really serious street fight and loss of life. I cannot too strongly commend his bravery, especially his courage in firing his revolver. Such action may well have directed the fury of the crowd against himself, and this thought must have crossed his mind.

6. My purpose in this preliminary part of the judgment is only to give my findings as to what actually occurred. Incidentally, I have expressed my conviction that the common object of the fishermen in marching with arms against the Moplahs was to provoke a fight. I have also had to say that the contention put forward by both sides that no actual conflict occurred is past belief. But I may now conclude this portion of my judgment by saying that the astounding case with which both armed mobs were controlled, and the entire absence of any serious injuries on either side is not only a tribute to the courage and prestige of Police Officers, but also indicates clearly that the Moplahs were on the defensive, while the fishermen had no real grievance but were being instigated by interested persons in the background to provoke a fight, for which they had little stomach.

7. It only remains to say that Sergeant Huggins of the Reserve Police was put on to the job of taking the names of those persons on both sides who had been rounded up by the Police.

8. I find that the fishermen were an unlawful assembly which used force in prosecution of their common object. Their common object was to commit an offence viz., to attack the Moplahs and to cause them physical hurt and to do mischief to their property.

9. It only remains to consider whether the appellants were members of this unlawful assembly. I find that all their names are in the list prepared by Sergeant Huggins. Of course false names may have been given, but it is quite unlikely. Moreover I am quite satisfied with the identification of the

various police officers and of the Moplah witnesses. In the case of several of them, there are would certificates to show that they actually received injuries. Out of 21 fishermen charged with rioting, seven say that they were elsewhere and produce evidence of alibi. I agree with the learned Magistrate that this evidence of alibi falls short of raising any reasonable doubts as to their actual presence in the unlawful assembly. The artificiality of the defence evidence is obvious. Those who were injured say that they were injured elsewhere. Those who were not injured adduce evidence to prove an alibi. I have considered all this evidence, and I agree with the learned Magistrate, for reasons given by him which I need not repeat, that all the appellants were present.

10. I confirm the order passed under Section 562 Cr.P.C against 1st accused (Purusha). The others have been sentenced to three months' rigorous imprisonment each and ordered to execute a bond to keep the peace for one year. I modify the order passed against them under Section 106 Cr.P.C. to this extent. The period for which they must undertake to keep the peace is extended to three years. I can see no point in a short term of imprisonment like three months. It really amounts to fining the Government. I sentence each appellant (except Purusha) under Section 148 I.P.C. to pay a fine of Rs.200/- with three months' rigorous imprisonment in default. I will grant them one month to pay these fines.

Mangalore,
9th December 1929.

(Sd) W. O. Newsam,
Sessions Judge.

True Copy.

(Sd) W. O. Newsam,
Sessions Judge.

To the Registrar, High Court, Madras.
To the District Magistrate. South Kanara (with records).

True Copy.

For Dt. Magistrate.

19.12.29

~~8~~ 36

In the Court of the Sessions Judge of South Kanara.

The ninth day of December 1929.

Present:- W. O. Newsam, Esquire, I.C.S.,
Sessions Judge.

Criminal Appeal No. 31 of 1929.

From what Court the appeal is preferred.	Sub Divisional I Class Magistrate, Puttur Division.
Number of the case in that Court.	C. C. No. 72 of 1929. 485-1012 (P)
Number of the appeal.	C. A. No. 31 of 1929.
Names and description of the appellants.	1. Gaslight Ahmed, son of Moidin Beary 2. Addu, son of Abbu Beary. 3. Shekabba, son of Hussein Beary. 4. Podia, son of Cheyya Beary. 5. Kassim Beary, son of Abdul Kadri Beary. 6. Abdul Kadri Beary, son of Kunhambu Beary. 7. Hotel Mammade, son of Hussane Beary. 8. Pilthaje Hussein, son of Moidin Beary. 9. Ahmed Beary, son of Moidin Beary. 10. Abalabba Beary, son of Hammabba Beary. 11. Moosabba Beary, son of Husseinabba Beary. 12. Poochakanna Isuf Beary, son of Hammade [illegible] 13. Abbu alias Abdul Khan, son of Yakub Khan. 14. Seedi Mukri Beary, son of Mahammad Moila[illegible] 15. Ahmed Beary, son of Sheke Beary. 16. Abdul Rahiman, son of Abdul Khader. 17. Iddinabba Beary, son of Pakruddin Beary. 18. Husseinabba, son of Abbunhi Beary. 19. Hamabba, son of Koya Beary. 20. Chabu Beary, son of Pokare Beary. 21. Syed Abdul Rahiman, son of Syed Haroon. 22. Abdul Kadri, son of Abdul Haji. 23. Ahmed, son of Syed Beary. 24. Kokan alias Yusuf Saheb, son of Puttu alias Ismail Saheb. All residing in Mangalore Town.
The sentence and law under which it was imposed in the Lower Court.	Appellants 1 to 21. To undergo rigorous imprisonment for three months each and to execute a bond for Rs. 50/- with one surety each for a like amount each, for keeping the peace for a period of one year from -- this date under section 106(1) Cr. P.C. Appellants 22 to 24. Released on probation of good conduct on entering into a bond in a sum of Rs. 50/- each with one surety for a like amount each to appear and receive sentence when called upon during a period of one year from this date and in the mean-time to keep the peace and be of good --- behaviour under section 562(1) Cr. P.C.
Whether confirmed, modified or reversed, and, if modified, the modification.	R e v e r s e d.

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Date - or, or on which.

Presentation.	Filing.	Notice issued by Court.	Appellant ordered to -- appear.	Hearing.	Order.
12-11-1929	12-11-29	13-11-29	23-11-1929. Adjourned to 6th Dec. 1929 on -- account of Sessions.	6-12-29	9-12-29

This appeal coming on for hearing before me; upon perusing the petition of appeal and the record of the evidence and proceedings, and upon duly considering the same after hearing the arguments of --- Mr. G. Somasekar Rao, Vakil, for appellants 1 to 12, 14 and 16 to 24, of Mr. B. Narsing Rao, Counsel for the 13th appellant and of Mr. R.M.Ray, Counsel for the 15th appellant and the Public Prosecutor contra, I do adjudge and pass the following

J u d g m e n t.

There was a riot on May 6th, 1929 between Moplahs and Hindu -- fishermen. The Police charged certain members of the crowd on either side under Section 148 I.P.C., and these two appeals are filed by --- Moplahs and fishermen respectively against their conviction. Though the appeals are two in number and are from separate judgments, the -- incident was one, and there are so many points common to both appeals that it seems to me best to write one prelude to both judgments.

2. First, however, I must refer to another appeal which was -- heard by me about the same time, because it relates to a closely connected affair. In C. A. 37 and 38 of 1929. I have arrived at the following conclusions. On May 4th the fishermen organised a funeral procession with music and took it through the Moplah quarter, with the special -- object of proving to the Moplahs that they could not prevent music -- before mosques. The Moplahs attacked the procession. The Police -- arrived on the spot at this stage. The fishermen, however, were ---

quickly reinforced in numbers, and the Moplahs also began to assemble armed in their mosques. The handful of Police on the spot decided to escort the fishermen past the mosque as quickly as may be. This action ~~of~~ by the Police was misinterpreted by the Moplahs as championship of the fishermen's side. Consequently the Moplahs again attacked -- the procession, and a serious riot was only prevented by the arrival of the District Superintendent of Police with the Reserve Police --- Hockey team, with whom he was playing when news of the riot reached him.

3. This was the incident of May 4th, and for their share in the incident, I have confirmed the conviction of the Moplahs for --- rioting.

4. At the present moment we are concerned with events of the 6th May. That morning the fishermen assembled together to concert measures against the Moplahs. That this was their object no ---- sensible person can doubt for one moment. It is really puerile to suggest that the object of this assembly was only to collect money for litigation with the Moplahs. Subsequent events prove that --- litigation is not the weak spot of either party to this feud. As a matter of fact, the Police authorities were apprised of this meeting of fishermen, and a man was sent to find out and report what they were planning to do. The Moplahs themselves were under no delusions as to the intention of this gathering of fishermen. Indeed it -- would have taken a very stupid Moplah indeed all his time to believe that their intentions were peaceful. The Moplahs sent word to the Police that the fishermen were coming to attack them and they asked for protection. A large body of weirdly armed fishermen, estimated at over 1000, then marched upon the Moplah quarter. They say, or it is said for them, that they were going to represent certain ---- grievances to the Police. This allegation is humourous - at least it strikes me as more funny than true. I believe that the common object of the fishermen was to trail their coats once more in the

James P. Haute

Moplah quarter, this time after adequate preparation and with --- weapons at the ready. To put it bluntly, they went looking for a fight. Hearing that the fishermen were coming armed and marching against them, the Moplahs gathered in their street and each man --- seized the weapon nearest to his hand. They did not really go to meet the fishermen but seem to have awaited them at the top of the Moplah street. Inspector Schamnad, himself a Moplah, was the first policeman on the spot. He pushed his way in a jutka through the stream of Moplahs going towards the top of the street, and was just in time to place himself between the two armed mobs. Sub --- Inspector Furtado was with him and they were both armed with --- revolvers. The two crowds began to throw stones at each other, and to engage in hand to hand struggle with sticks. The Policemen were hemmed in and surrounded, and of course their situation was extremely dangerous. At this point Inspector Schamnad fired his revolver into the struggling mass and he was after that able to separate the protagonists and to take up a position between them. Sub Inspector Furtado began to push back the fishermen crowd, and he began to push the Moplahs back. At this juncture the District Superintendent of Police arrived with the Sub Magistrate and a body of Police, disarmed both crowds, rounded up some of them and dispersed the rest.

5. Now in both these appeals, the learned Advocates have --- argued that there was never any clash between the two crowds. --- Really this is too absurd. Not only is it obvious that Inspector Schamnad would not have fired his revolver unless there was a melee - (he shot a Moplah as a matter of fact), but the wound certificate show that the two mobs did come to grips, and even when the District --- Superintendent of Police came both mobs were excited, and within striking distance of each other. In these circumstances, it seems to be only another homourous suggestion that there was absolutely no conflict between the two crowds. Of course, it is undisputable that Inspector Schamnad's prompt and courageous behaviour in firing his revolver before it was too late, prevented a really serious --

Same as p. 5 ante

street fight and loss of life. I cannot too strongly commend his bravery, especially his courage in firing his revolver. Such action may well have directed the fury of the crowd against himself, and this thought must have crossed his mind.

6. My purpose in this preliminary part of the judgment is only to give my findings as to what actually occurred. Incidentally, I have expressed my conviction that the common object of the fishermen in marching with arms against the Moplans was to provoke a --- fight. I have also had to say that the contention put forward by both sides that no actual conflict occurred is past belief. But I may now conclude this portion of my judgment by saying that the --- astounding ease with which both armed mobs were controlled, and the entire absence of any serious injuries on either side is not only a tribute to the courage and prestige of Police officers, but also -- indicates clearly that the Moplahs were on the defensive, while the fishermen had no real grievance but were being instigated by interest persons in the background to provoke a fight, for which they had --- little stomach.

7. It only remains to say that Sargeant Huggins of the --- Reserve Police was put on to the job of taking the names of those persons on both sides who had been rounded up by the Police.

8. It follows from what I have said above that the Moplahs did not form an unlawful assembly. I am convinced that they ---- assembled with the common object of defending their persons and property from unlawful invasion by a large mob of armed fishermen. The fact that they did not disperse when the District Superintendent of Police ordered them to cannot make their assembly unlawful. It is difficult for a mob in a narrow street to disperse, nor was it safe to disperse until the fishermen had dispersed, for the Police were few in number, and might easily have been rushed and over-powered.

9. The conviction of the Moplahs on the charge of rioting is unsustainable. I allow their appeal and reverse the conviction

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and sentences passed upon them. Their bail bonds will be cancelled.

Mangalore,)
9th December 1929.)

(Sd) W. O. Newsam,
Sessions Judge.

(True Copy)

(Sd) W. O. Newsam,
Sessions Judge.

To the Registrar, High Court, Madras.

To the District Magistrate, South Kanara, with records.

True Copy.

for Dt. Magistrate.

19.12.29

In the Court of the Sessions Judge of South Kanara.

Monday, the 9th day of December, 1929.

Present:- W.O.Newsam, Esquire, I.C.S.,

Sessions Judge.

Judgment in Criminal Appeal Nos.37 & 38 of 1929

From what Court the Appeal is preferred.	Sub Divisional Magistrate, Puttur.
Number of the case in that Court.	C.C.No.73 of 1929.
Number of the Appeal.	C.A.Nos. 37 and 38 of 1929.
Name and description of the Appellants.	C.A.No.37 of 1929. 1. Gaslight Ahmad, son of Moidin Beary. 2. Podia, son of Cheyya Beary. Both residing in Mangalore Town. C.A.No.38 of 1929. 1. Addu, son of Abbu Beary. 2. Moosabba, son of Hussenabba. 3. Peethaje Hussain, son of Moidin Beary. 4. Poochakanna Yusuf, son of Ammad Beary. 5. Kokan alias Yusuf Saheb, son of Puthu alias Ismail Saheb. 6. Abalabba, son of Hammabba. 7. Pokabba, son of Abdul Khader. 8. Iddikunhi, son of Hammad Kunhi. 9. Hotel Mammade, son of Hussein Beary. All residing in Mangalore Town.
The sentence and law under which it was imposed in the Lower Court.	Appellants 1 and 2 in C.A.No.37/29. To pay a fine of Rs.51/- (Rs.20/- for the offence under section 148 I.P.C. and Rs.31/- for the offence under section 324 I.P.C.), in default to undergo rigorous imprisonment for three months. Appellants in C.A.No.38/29. 3rd Appellant:- To pay a fine of Rs.40/- (Rs.20/- for the offence under section 148 I.P.C. and Rs.20/- for that under section 323 I.P.C), in default to undergo rigorous imprisonment for two months. Appellants 1,2,4,6,7,8 & 9:- To pay a fine of Rs.20/- each, in default to undergo rigorous imprisonment for one month each. Appellant 5:- Released on probation of good conduct on entering into a bond in a sum of Rs.50/-, with one surety for a like amount to appear and receive sentence when called upon during a period of one year from this date and in the meantime to keep the peace and be of good behaviour.
Whether confirmed, modified or reversed, and if modified, the modification.	Sentence confirmed under section 562 Cr.P.C in regard to Kokan alias Yusuf Saheb 5th appellant in C.A.No.38 of 1929.

and modified in regard to the other appellants in both appeals. The other appellants are sentenced each to pay a fine of Rs.20/- (10/- on each count) and in addition each of them to execute a bond under section 106 Cr.P.C.in a sum of Rs.20/- with one surety each in a like sum to keep the peace for a period of three years. Convictions of all appellants confirmed.

Date - of, or on which.					
Presentation.	Filing.	Notice issued by court to appear.	Applt ordered to appear.	Hearing.	Order.
		C.A. 37 of 1929.			
21-11-1929.	21-11-29.	25-11-1929.	6-12-1929 Adjourned for want of time to 7th Dec.1929.	7-12-29	9-12-29.
		C.A. 38 of 1929.			
23-11-29.	23-11-29.	25-11-1929.	6-12-1929 Adjourned for want of time to 7th Dec.1929.	7-12-29	9-12-29.

This appeal coming on for hearing before me: Upon perusing the petition of appeal and the record of the evidence and proceedings and upon duly considering the same after hearing the arguments of Counsel Mr. Rao Saheb A.J.Lobo for the Appellants in C.A.37 of 1929, of Mr. G. Somashekar Rao, Vakil for the Appellants in C.A.No.38 of 1929 and the Public Prosecutor contra, in both the appeals, I do adjudge and pass the following

J u d g me n t.

The eleven appellants in these two appeals are Moplas. They have all been convicted of rioting armed with deadly weapons; some of them have also been convicted of voluntarily causing hurt.

2. In spite of its mixed population, Mangalore Town has remained free of communal trouble until towards the end of 1928. But in December 1928 it was found necessary to issue an order under section 144 Cr.P.C. prohibiting the playing of music by Hindu processions before Mosques. The order was in force for only two months, but the Hindus questioned its validity so strenuously that even while the order remained in force the Moplas were apprehensive that it would be disobeyed. It seems clear tha

See the history at pp. 12-15 (P)

the Moplas had asserted as a right that music should cease in front of mosques as processions passed by, and the Hindus, particularly the fishermen community, challenged this right. I have reason to think that the hardy fishermen were the catspaws of milder caste Hindus. The order under section 144 Cr.P.C. was looked upon as one giving a temporary advantage to the Moplas and as such was resented and defied. All this bother was no doubt due to the absence of any other form of excitement, and undoubtedly to local mischief-makers inflated with newspaper stories and their own self-importance. I am satisfied from certain documents in this case (Exhibits V,VI & VII) that the situation in the early part of 1929 was that some sections of the Hindus, especially the fishermen, were bent on demonstrating to the Moplas that they (Hindus) had a perfect right to take processions with music (or what passes for music) in front of mosques, while the Moplas were doing their best to secure that their right to the courtesy of silence before mosques should be supported by the Police authorities, and were determined, failing Police help, to enforce that so-called right by force if necessary. This in fact is the tone of their petitions to the Police.

The incidents are narrated at Mk 6-8 of (P)

3. On the 4th May last a procession of about 25 Hindu fishermen (Mogairs), escorting a dead body to the Boloor crematio ground, passed with music through the Moplah quarters in front of mosques. Opposite the Puslar mosque, the Moplahs attacked the Mogairs. A few persons on both sides were injured, and the Mogairs set the corpse down on the street and retired and nursed their wounds and their grievances until they were reinforced by a large body of fishermen. Meantime the Moplahs also were assembling with arms in their mosques along the road awaiting developments. At this crisis, the Police came on the scene. The first Policemen on the spot was acting Sub Inspector Ramakrishna. (P.W.7). He found some wounded Moplahs in the Puslar mosque, and some injured fishermen at the Hindu Bhajana Mandir. He also

p. 6 hw.

found the corpse lying on a bier in the street. The above incident is not the subject matter of the present case. The brief account of it given above is, I have little doubt, an accurate description of all that actually occurred. I may add that I have still less doubt that the funeral procession in question was organised as a challenge to the Moplahs. As I have said, the challenge was accepted. I think it is not usual for fishermen to cremate their dead in Boloor, which is a long way away and separated from their residential quarter by the Moplah quarter. No charge sheet was filed by the Police in connection with this incident opposite the Puslar mosque, because the Police were not present at the time and also because a similar clash took place soon afterwards a little further on opposite the Nadupalli mosque, at which Police officers were present.

4. To continue - The Moplahs seem to have assembled at the Nadupalli mosque further up the street in order to prevent the procession from passing that mosque. Sub Inspector Furtado (P.W.6) who had by now arrived, went to the Nadupalli mosque to see whether he could not persuade the Moplahs to disperse and to let the procession pass. He soon saw that it was useless. The Moplahs were in no mood then to listen to reason. Sub Inspector Furtado therefore began to write a report to the District Superintendent of Police about the situation, but before he could complete it there were developments. The fishermen, whose numbers were now increased to over 100, formed up again, this time escorted by Sub Inspector Ramakrishna (P.W.7), a Head Constable (P.W.8) and some constables who had arrived in the meantime. The procession of fishermen was now under Police protection, and it moved along until it came before the Nadupalli mosque, when the Moplahs again attacked its members. I do not believe that the bier was the object of this attack. The simple truth is that the Moplahs were roused to aggression, and no doubt fancied that the Police were helping the fishermen to take the now noisy and vociferous procession past their mosque. I believe it was this feeling that the Police were

on the fishermen's side that was mainly responsible for the second attack. However that may be, there was a conflict. Stones were thrown on both sides - swords and other dangerous weapons were brandished and used, and anything might have happened, but for the timely arrival of the Dt.Superintendent of Police, summoned from the hockey field. He came with some of the hockey players (Reserve police) and dispersed the crowd and restored order in a very short space of time. The eleven appellants, it is said, were members of the Moplah crowd which attacked the procession opposite Nadupalli mosque. I have come to the definite conclusion that this second assault was directly brought about by a misconception on the part of the Moplahs. They argued thus:- These Mogair fishermen have for some time past been making demonstrations in front of our mosques to show us that we are not entitled to the courtesy of silence in front of our mosques. We have been asking the Police to stand by us in this matter and they have not done so. To day these fishermen have come here deliberately to see whether we will dare insist on being shown this courtesy. We have accepted their challenge and put a stop to the procession opposite the Puslar mosque. But then the Police came, and instead of turning the fishermen back and supporting us, the Police who are themselves Hindus, are giving their protection to the fishermen, and actually escorting the procession past the next mosque in the street. Thus they reasoned, and then they used force. But while I can appreciate the narrow viewpoint of the Moplahs, the point of view of the Police officers must not be overlooked. I can find absolutely no justification for the view that the Police were in sympathy with one side or the other. The situation being as it was, their obvious duty was to see that the dead body was taken to the cremation ground without any further breach of the peace, and the only way to do that was to stand by and escort the procession. To have turned the funeral procession back would have been unwise and just as dangerous as taking it forward, or

allowing it to remain there in a street mainly occupied by Loplas. I think that the Police officers P.Ws.6,7 and 8 did what seemed best to them in the circumstances, and there is absolutely no foundation for the allegation that they showed open sympathy with the Mogairs.

5. The main question in these two appeals is whether in the circumstances the Moplahs were an unlawful assembly when they attacked the procession opposite the Nadupalli mosque, for in my judgment it is idle to maintain that it is not a fact that they did attack the procession. If my view is correct, their motive in making this second attack was exasperation at the apparent failure of the Police officers to see the situation from their point of view i.e., as a deliberate challenge by the Mogairs to them to stop such a procession if they could. Their common object therefore was to enforce their supposed right to the cessation of music by processions passing mosques. I do not mean to say when the procession was passing Nadupalli mosque there was any music. It is far more likely that there were shouts of defiance, and angry excited voices to describe which as music would require more imagination than I possess. I have no doubt therefore that the Moplahs were an unlawful assembly and that they used force in prosecution of their common object.

6. The next point for consideration is whether the eleven appellants were members of that unlawful assembly. In the F.I.R.(Exhibit IV) no names were mentioned because of course no police officer can have known the names of all the Moplahs who were in the unlawful assembly. But I have no hesitation in accepting the evidence of P.Ws.6.7 and 8 that all the accused persons were members of the assembly. P.Ws.6 and 7 knew most of them before, and I do not think it possible that they have made a mistake in this matter. Besides the evidence of the prosecution witnesses, there is the evidence of some fishermen, who may be interested in one sense, but who nevertheless cannot be reasonably suspected of falsely implicating certain persons, when it is an undoubted fact that there was an unlawful assembly of Moplahs.

7. Their identification of the accused is reliable. The learned Magistrate has troubled to frame charges against some of the accused of specific acts of voluntarily causing hurt. It is unnecessary to do this in view of section 149 I.P.C. As I find and he also found, that causing hurt by dangerous weapons was an offence committed by some members of the unlawful assembly in prosecution of their common object, every member of that assembly is also guilty of that offence. I agree with his remarks about the alibi set up by accused 10.

Para 15, p.77 (2)

8. Accordingly I confirm the conviction of all the appellants under Section 148 I.P.C. and by virtue of Section 149 I.P.C. I also convict them all under Section 324 I.P.C.

9. As regards sentence, I confirm the order under Section 562 Cr.P.C. in regard to Kokan alias Yusuf Saheb. I sentence the remaining accused persons each to pay a fine of Rs.20/- (Rs.10 on each count) and in addition, I order under Section 106 Cr.P.C. that each of them execute a bond in a sum of Rs.20/- with one surety each in a like sum to keep the peace for a period of three years. If I may venture to make a suggestion for the future keeping of the peace between Moplahs and Mogairs, it is t This Hindu-Moplah tension is an artificial thing and I do not believe that it has been engineered either by any Moplah or by any Mogair. I do not know who are behind it all, but it should be the object of the Police to find out and to take action again the person or persons responsible under the security sections.

Sd/- W.O.Newsam,
Sessions Judge

Note:-Time for paying fines given - one month.

Sd/- W.O.Newsam,
Session Judge.

(True copy)

Sd/- W.O.Newsam,
Sessions Judge.

To the Registrar, High Court, Madras.
To the Dt.Magistrate, South Kanara (with records).

(True copy)

For Dt.Magistrate.